

141 FERC ¶ 61,026
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

El Paso Natural Gas Company

Docket Nos. CP12-6-000
CP12-7-000

ORDER ISSUING CERTIFICATE AND AMENDING PRESIDENTIAL PERMITS

(Issued October 12, 2012)

1. On October 11, 2011, in Docket No. CP12-6-000, El Paso Natural Gas Company (El Paso) filed an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations for a certificate of public convenience and necessity authorizing El Paso to reconfigure its Willcox Compressor Station from mainline service to lateral service by completing certain piping and facility modifications to the station and existing delivery meter stations in Cochise County, Arizona (Willcox Lateral 2013 Expansion Project). The proposed construction will enable El Paso to provide additional transportation capacity to Mexico.¹
2. In a companion application filed on October 7, 2011, in Docket No. CP12-7-000, El Paso filed an NGA section 3 application to amend and reissue its existing Presidential Permits to increase the export capacity at three separate border crossing facilities as a result of the Willcox Lateral 2013 Expansion Project. The Commission will grant the requested authorizations, subject to conditions, as discussed below. However, we will deny El Paso's request for a predetermination of rolled-in rate treatment for the Willcox Lateral 2013 Expansion Project.

¹ On March 6, 2012, El Paso notified the Commission that additional modifications were necessary to operate the Willcox Lateral and identified 21 public road crossings where replacement with thicker-walled pipe would be required. Specifically, El Paso determined that increasing the maximum allowable operating pressure of the Willcox Lateral would not meet the Pipeline Hazardous Material Safety Administration design factor requirements for public road crossings as codified in 49 Code of Federal Regulations (CFR) 192.111(b)(1) and (2).

I. Background and Proposal

3. El Paso owns and operates an integrated interstate natural gas pipeline system which physically extends from various natural gas production areas in the southwestern United States through the States of Texas, New Mexico, Colorado, Arizona, and California.

4. The Willcox Compressor Station was originally constructed in the late 1940s to allow for the transportation of natural gas from production areas in west Texas and southwestern New Mexico to locations in New Mexico, Arizona, and to the California border. The Willcox Lateral was constructed in 2001 and 2002 as authorized in Docket No. CP99-322-000, with a daily design capacity of 130,000 Mcf/d. The Willcox Lateral consists of a pipeline commencing at the suction side of the Willcox Compressor Station and extending south approximately 61.4 miles. The lateral then bifurcates into an east and west branch with metering facilities near the terminus of each branch lateral line.² The west branch lateral line extends southwesterly for approximately 2.9 miles, terminating near the International Boundary between the United States and Mexico. The east branch line extends southeasterly for approximately 12.2 miles, terminating at a point southwest of Douglas, Arizona at the International Boundary between the United States and Mexico.

5. The Willcox Lateral is currently tied into El Paso's mainline at the suction side of the Willcox Compressor Station; as a result, the Willcox Compressor Station does not provide any compression for the Willcox Lateral and is currently configured to provide only mainline compression. El Paso is proposing to reconfigure its Willcox Compressor Station from mainline service to lateral service to serve future power plant infrastructure in the State of Sonora, Mexico.³

² The Willmex Meter Station is located at the terminus of the west branch and the El Fresnal Delivery Point is located at the terminus of the east branch. The Douglas Meter Station is located on the east branch, approximately one-mile upstream of the El Fresnal Meter Station.

³ Two new power plants are being constructed in the State of Sonora, located in northern Mexico, which will utilize natural gas as fuel for the generation of electricity. The first facility, the Agua Prieta II Power Plant, is currently being developed by the Comision Federal de Electricidad. Natural gas volumes to the Agua Prieta II facility will be provided by MGI Supply Ltd. (MGI). In addition, Mexicana de Cobre, S.A. de C.V. (Mexicana de Cobre) is planning to build a 500 MW combined cycle generating facility in two stages, 250 MW in 2013 and 250 MW in 2014, at their mining facilities in La Caridad, Sonora. As discussed below, these two shippers (MGI and Mexicana de Cobre) have executed transportation precedent agreements (TPA) with El Paso to support these power facilities.

6. Concurrent with this application, El Paso filed an application under section 3 of the NGA to amend its existing Presidential Permits to increase the export capacities of the border crossings served by the Douglas, El Fresnal and Willmex Meter Stations.⁴ As proposed, the authorized capacities of the border crossing facilities will match the delivery capabilities of the upstream meter stations.

Facilities

7. El Paso proposes to reconfigure its Willcox Compressor Station from mainline service to lateral service by completing certain piping and facility modifications to the compressor station. This change will increase the operating pressure of the Willcox Lateral to 1,260 psig and necessitate a corresponding increase in the maximum allowable operating pressure. In addition, El Paso proposes to replace pipeline at 21 public road crossings to accommodate the higher pressure. The existing El Fresnal Meter Station and the Douglas Meter Station will be modified to increase their maximum delivery capacities. Additionally, the Douglas Meter Station will be disconnected from the mainline and dedicated solely to the Willcox Lateral via a new 400-foot pipeline segment. Finally, as a result of the increased operating pressure on the Willcox Lateral, the existing Willmex Meter Station will have a higher maximum delivery capacity (the new incremental design capacity is 185,000 Dth/d), although no physical modifications will be undertaken at the meter station.

Rates

8. The capital cost for the Willcox Lateral 2013 Expansion Project will be approximately \$23.1 million. El Paso states the Willcox Compressor Station is currently considered a mainline station and its costs are not included in the existing Willcox Incremental Lateral rates. El Paso proposes that after the modifications to the compressor station are complete, the total costs will be considered incremental lateral costs. El Paso is seeking a pre-determination of rolled-in rate treatment for the costs associated with this project, with the roll-in occurring not into the mainline rates but into the existing Willcox Incremental Lateral rate. El Paso proposes to use its existing Willcox Lateral Rate Schedules FT-1 Willcox and IT Willcox reservation and usage rates, respectively, as the initial recourse rates for service on the Willcox Lateral.

9. El Paso proposes to recover fuel costs associated with the project through a new, incremental fuel charge. El Paso states, as originally constructed, the Willcox Lateral had no compression and no fuel charges attributed to service on it. El Paso contends the

⁴ The Presidential Permits were granted in *El Paso Natural Gas Co.*, 84 FERC ¶ 61,065 (1998) (border crossing facility connected to the Douglas Meter Station), and *El Paso Natural Gas Co.*, 90 FERC ¶ 61,126 (2000) (border crossing facilities connected to the El Fresno and Willmex Meter Stations).

conversion of the Willcox Compressor Station from mainline to lateral service warrants the establishment of a new incremental fuel charge. El Paso states the existing firm contracts on the Willcox Lateral have been served without the use of compression. Therefore, El Paso proposes that the firm contracts existing prior to the approval of this application be grandfathered and not incur the incremental fuel charge for the contracted quantity to delivery points on the Willcox Lateral. El Paso states the Willcox Lateral incremental fuel charge will apply only to the lateral expansion shippers along with all interruptible, alternate firm, and overrun service (on new or grandfathered firm contracts) using the Willcox Lateral. El Paso states that the fuel charge for the expanded transportation service is anticipated to be 1.6 percent based upon present design conditions for the new facilities.⁵

10. El Paso proposes to reclassify⁶ the remaining costs of the existing Willcox Compressor Station from mainline transmission service to the incremental Willcox Lateral service. El Paso states that the Willcox Compressor Station is currently underutilized and serves primarily as back-up or reserve compression on El Paso's mainline system. The cost reclassification includes revising the depreciation rate for the Willcox Compressor Station from the current mainline transmission rate of 2.2 percent to the current Willcox Lateral depreciation rate of 3.4 percent.

Open Season

11. El Paso solicited shipper interest for a potential expansion of its Willcox Lateral through an open season from April 13 through April 29, 2011. Two shippers, MGI and Mexicana de Cobre requested additional capacity on the Willcox Lateral. MGI executed a TPA to transport 95,000 decatherms per day (Dth/d) of natural gas through El Paso's Willcox Lateral for delivery to the El Fresnal Meter Station. Mexicana de Cobre executed a TPA to transport 90,000 Dth/d on the Willcox Lateral to serve its new power plant at the Douglas Meter Station. Under the terms of the TPAs, both MGI and Mexicana de Cobre have agreed to pay a discounted Willcox Lateral Reservation Rate equivalent to \$.0925 per Dth for a 15-year contract term. When these new incremental volumes are combined with the existing firm contracts on the Willcox Lateral, the total firm contract capacity on the Willcox Lateral will be 291,286 Dth/d (106,286 Dth/d of existing capacity and 185,000 Dth/d of expansion capacity).

⁵ See Exhibit N to El Paso's application at 6.

⁶ El Paso's application uses both "reclassify" and "refunctionalize," however, this order uses only "reclassify" because the facilities will remain in the transmission function.

II. Notice, Interventions, and Comments

12. Notice of El Paso's applications in Docket Nos. CP12-6-000 and CP12-7-000 was published in the *Federal Register* on October 27, 2011, 76 Fed. Reg. 66,711 and 66,708, respectively. The parties listed in Appendix A filed timely, unopposed motions to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.⁷ The El Paso Municipal Customer Group's motion to intervene included comments supporting the Willcox Lateral 2013 Expansion Project. The comments state that rededicating the compressor station from mainline service to lateral service will reduce future costs for mainline shippers and provide a cost effective means of expanding the existing Willcox Lateral.

III. Consultation with Secretaries of State and Defense

13. On November 18, 2012, pursuant to Executive Orders Nos. 10485 and 12038, the Commission sent letters to the Secretaries of State and Defense seeking their recommendations on El Paso's requested issuance of amended Presidential Permits and amended section 3 authorization. By letters dated January 12, 2012, and March 1, 2012, the Secretaries of State and Defense, respectively, indicated that they have no objections to the Presidential Permits for El Paso.

IV. Discussion

Section 7 Authorization

14. Since the proposed facilities will be used to transport natural gas in interstate commerce, subject to the jurisdiction of the Commission, the construction and operation of the facilities are subject to the requirements of subsections (c) and (e) of section 7 of the NGA.⁸

A. Certificate Policy Statement

15. The Certificate Policy Statement provides guidance for evaluating proposals to certificate new construction.⁹ 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 explained that in

⁷ 18 C.F.R. § 385.214(c) (2012).

⁸ 15 U.S.C. §§ 717f(c) and 717f(e) (2006).

⁹ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

deciding whether to authorize the construction of major new pipeline facilities, we balance 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 and of 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 the new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we 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 we proceed to complete the environmental analysis where other interests are considered.

17. As discussed above, the threshold requirement is that the applicant must be prepared to financially support the project without relying on subsidization from its existing customers. El Paso calculated an incremental rate for the Willcox Lateral 2013 Expansion Project, including the costs associated with the to-be-reclassified Willcox Compressor Station. This incremental rate of \$0.1187 per Dth is less than the existing incremental rate of \$0.1257 for firm service on the Willcox Lateral. Therefore, El Paso proposes to use its existing Willcox Lateral Rate Schedules FT-1 Willcox and IT Willcox reservation and usage rates, respectively, as the initial recourse rates for service on the Willcox Lateral. In addition, El Paso states that this justifies a finding by the Commission that El Paso should be permitted to roll in the costs of the Willcox Lateral 2013 Expansion Project into the existing Willcox Lateral incremental rates. However, El Paso has entered into discount rate agreements with both MGI and Mexicana de Cobre at \$0.0925 per Dth for firm service on the expansion capacity. At this discounted rate, El Paso would under-recover the costs associated with the Willcox Lateral 2013 Expansion Project by \$4,745,043 over the first 3 years of service. To protect existing shippers on the Willcox Lateral from subsidizing the expansion we will deny El Paso's request for a predetermination of rolled-in rate treatment for the expansion facilities without prejudice to El Paso requesting rolled-in rate treatment in a future NGA section 4 proceeding.

18. We also find that the proposal will not degrade service to El Paso's existing customers. El Paso's existing Willcox Lateral shippers will not experience any adverse

effects due to the Willcox Lateral 2013 Expansion Project. Rates for existing lateral shippers will not change and operational reliability and flexibility will be increased on the lateral. In addition, by reclassifying the costs of the Willcox Compressor Station to the incrementally priced lateral, mainline shippers will be subject to reduced costs in future rate proceedings. Moreover, no pipeline company has protested El Paso's application. Thus, we find the proposed project will not result in any adverse impact on El Paso's existing customers, or on other existing pipelines and their captive customers.

19. Finally, there will be minimal adverse effects to landowners. Since El Paso will be modifying an existing compressor station, and El Paso owns the land surrounding that compressor station, there will be no need to acquire land from private landowners for the repurposing of the station. In addition, the road crossing replacements are not expected to adversely impact existing or future land uses due to the temporary nature of the disturbance. The localized nature of the construction activity, and the mitigation measures imposed in this order, will minimize impacts to landowners.

20. The Willcox Lateral 2013 Expansion Project will allow El Paso to expand its facilities to serve future power plant infrastructure in the State of Sonora, Mexico. The repurposing of the currently underutilized compressor station for this project will permit El Paso to provide additional capacity on the Willcox Lateral, at a minimal cost, without the need to construct a loop or additional compression. In addition, as noted above, by reclassifying the costs of the Willcox Compressor Station to the incrementally priced lateral, mainline shippers will be subject to reduced costs in future rate proceedings. Based on the benefits the project will provide and the lack of any identifiable adverse impacts on El Paso's existing customers, other pipelines and their captive customers, and landowners and surrounding communities, we find that, consistent with the Certificate Policy Statement and section 7(c) of the NGA, the public convenience and necessity requires approval of El Paso's proposal, subject to the conditions set forth herein.

B. Rate Treatment

21. The Commission approves El Paso's initial firm and interruptible base rates as proposed. However, the Commission will deny El Paso's request for a predetermination supporting rolled-in rate treatment for the capital costs of the proposed expansion project into the existing Willcox Lateral rates. After review of the discounted transportation rates in the TPAs which support the construction of the expansion facilities, it appears that the revenue generated will fail to meet the annual cost of service requirement. As shown on Revised Exhibit N, the Expansion Cost of Service including refunctionalized facilities for Year 1 is \$8,015,631.¹⁰ Conversely, the annual revenue generated from the two TPAs will only amount to \$6,246,062 ($\$.0925 \times 185,000 \text{ Dth/d} \times 365 \text{ days}$). Thus,

¹⁰ See El Paso's May 7, 2012 Response to the Office of Energy Projects Data Request, Revised Exhibit N, at 5.

existing customers could be exposed to Willcox Lateral 2013 Expansion costs if the facilities were rolled in in a later proceeding. This finding is without prejudice to the pipeline requesting rolled-in rate treatment in a future NGA section 4 proceeding.

C. Incremental Fuel Charge

22. With regard to El Paso implementing a new incremental fuel charge upon completion of the project, the Commission concurs that since the project is largely a compression-based expansion, a fuel charge is appropriate for the firm customers on the incremental capacity. Existing firm contracts on the Willcox Lateral have been served without the use of compression and the new fuel charge will not apply to those contracts. Therefore, there will be no subsidization of fuel costs by existing shippers as required by the Commission's Certificate Policy Statement. The Commission, however, will not permit the new fuel charge to be applied to existing firm customers' overrun or alternative firm service on the Willcox Lateral. These services' currently effective rates and contracts do not have a fuel charge. El Paso may not propose to change the existing approved Willcox Lateral fuel rate applicable to existing customers and capacity in an NGA section 7 proceeding. The Commission also rejects El Paso's proposal to assess a fuel charge to IT customers. The Willcox Lateral 2013 Expansion Project is integrated with the existing Willcox Lateral. The interruptible service to be rendered on the Willcox Lateral by the existing facilities and the Willcox Lateral 2013 Expansion Project are identical. Assessing the same charge for the same service on an integrated facility is consistent with the Commission's policy on allocative efficiency in rate design.¹¹ These findings are without prejudice to El Paso proposing to apply a fuel charge on all services on the Willcox Lateral in a future NGA section 4 proceeding

D. Lost and Unaccounted-For Gas Charges

23. Consistent with its tariff, El Paso proposes that no lost and unaccounted-for (L&U) gas charges be assessed for service on the Willcox Lateral when the volumes transported on the lateral are also transported on the mainline. This is in keeping with the current treatment on the Willcox Lateral. All gas volumes presently entering the Willcox Lateral are first transported on El Paso's mainline system and are assessed L&U charges only while on the mainline. However, if another pipeline were to be connected directly to the Willcox Lateral subsequent to this application, L&U would be charged on those volumes transported through the lateral to the other pipeline.

¹¹ See *Kern River Gas Transmission Co.*, 117 FERC ¶ 61,077, at PP 326-328 (2006).

E. Reclassification

24. Finally, El Paso requests that the Commission approve the proposed reclassification of the Willcox Compressor Station from the mainline system to the incrementally-priced lateral. By reclassifying this underutilized station, the shippers on both the mainline and the lateral will benefit. The mainline shippers will experience reduced costs in the future and no degradation of firm contracted service, whereas the lateral shippers will witness an increase in operational reliability and flexibility in service. Therefore, we approve El Paso's proposed reclassification of the Willcox Compressor Station from the mainline system to the Willcox Lateral.

Section 3 Authorization

25. Since the subject border crossing facilities are used to export gas across the United States-Mexico International Boundary, the proposal is subject to the Commission's jurisdiction under section 3 of the NGA.¹²

26. Section 3 provides for the Commission's approval of an application under that section "unless it finds that the proposal will not be consistent with the public interest."¹³ The proposed amendment will increase the export capacities of the border crossing facilities served by the Douglas, El Fresnal and Willmex Meter Stations to match the delivery capabilities of the upstream meter stations. The amended Presidential Permits would increase the combined maximum daily export capacity from 208,000 Mcf per day to a total of 446,000 Mcf per day¹⁴ of natural gas from the United States to Mexico, with the additional volumes intended to serve two new power plants in the State of Sonora located in northern Mexico. Further, the authorization of the proposed amendment will promote national economic policy by reducing barriers to foreign trade and stimulating the flow of goods and services between the United States and Mexico, both of which are

¹² The regulatory functions of section 3 were transferred to the Secretary of Energy (DOE) in 1977 pursuant to section 301(b) of the Department of Energy Organization Act. 42 U.S.C. § 7151(b) (2006). In reference to regulating imports or exports of natural gas, the DOE Secretary subsequently delegated to the Commission the authority to approve or disapprove the construction and operation of particular facilities, the site at which such facilities shall be located, and, with respect to natural gas that involves the construction of new domestic facilities, the place of entry for imports or exit for exports. The DOE Secretary's current delegation of authority to the Commission relating to import and export facilities was renewed by the Secretary's Delegation Order No. 00-004.00A, effective May 16, 2006.

¹³ 15 U.S.C. § 717b(a) (2006).

¹⁴ This represents the capacity of the three meter stations, not the capacity of the Willcox Lateral.

signatories to the North American Free Trade Agreement (NAFTA),¹⁵ providing for fewer restrictions on natural gas imports and exports.

27. Accordingly, the Commission finds the approval of El Paso's proposal is consistent with the public interest. Thus, the Commission will issue amended Presidential Permits, set forth in Appendix B to this Order, and NGA section 3 authorization to increase the authorized capacity of the border-crossing facilities.

V. Environmental Analysis

28. On December 2, 2011, the Commission issued a Notice of Intent to Prepare an Environmental Assessment (EA) for the Proposed Willcox Lateral 2013 Expansion Project and Request for Comments on Environmental Issues (NOI). The NOI was mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Indian tribes; local libraries and newspapers; and affected property owners.

29. In response to the original NOI, the Commission received two landowner comments. Julie Hall Allison filed comments requesting additional information on the project location and any impacts to her property. The EA states that representatives from El Paso contacted Ms. Allison and clarified that the project would not involve any construction on her property. Ralph and Rose Oriano expressed concern about adverse vibration impacts on pistachio trees on their property and operational safety of the Willcox Compressor Station. The EA reports that the Willcox Compressor Station was originally constructed with 15 reciprocating compressor units that were replaced with two turbine units in 1991. Reciprocating compressors are driven by a combustion engine system which may cause varying levels of ground vibration. However, the turbine compressor units that were installed in 1991 typically have lower ground-borne vibration. El Paso is not proposing any modification to the compressor drives as part of the project. No vibration issues are anticipated to be experienced as a result of this project.

30. Mr. and Mrs. Oriano also expressed concern about the location of an existing gate valve installed on their property by Kinder Morgan Inc. The gate valve and pipeline would not be affected by the proposed project.

31. We issued a supplemental NOI on April 30, 2012, after El Paso determined that it needed to replace pipe at 21 road crossings and install over-pressure protection at the Line 2163/2164 Bifurcation Facility. The White Mountain Apache Tribe filed comments on May 17, 2012, stating that the proposed action would not have an adverse effect on

¹⁵ Pub. L. No. 103-182 (December 8, 1993), 107 Stat. 2057; Implementation of the North American Free Trade Agreement Act, Executive Order No. 12889, 58 Fed. Reg. 69,681 (December 30, 1993).

historic properties or traditional cultural resources. No other comments were received in response to the supplemental NOI. The staff placed the EA into the public record on August 8, 2012.

32. Based on the analysis in the EA, we conclude that, if constructed and operated in accordance with El Paso's application and supplements and in compliance with the environmental conditions in Appendix C to this Order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

33. 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 of facilities approved by this Commission.¹⁶

Conclusion

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

The Commission orders:

(A) A certificate of public convenience and necessity is issued to El Paso pursuant to section 7 (c) of the NGA and part 157 of the Commission's regulations authorizing it to reconfigure its Willcox Compressor Station from mainline service to lateral service as described and conditioned herein, and as more fully described in the application.

(B) El Paso's existing NGA section 3 authorization and Presidential Permits are amended as discussed in the body of this order.

(C) El Paso shall sign and return the testimony of acceptance of all provisions, conditions, and requirements of the amended Presidential Permits to the Secretary of the Commission within 30 days of the issuance of this Order.

¹⁶ See, 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., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(D) El Paso's proposal to use its currently effective incremental Willcox Lateral rates as its initial recourse rates for service on the project facilities is approved. However, El Paso's request for a predetermination of rolled-in rate treatment of the Expansion costs on the incrementally priced Willcox Lateral in El Paso's next general rate case is denied.

(E) The incremental Willcox Lateral fuel charge for the Expansion facilities is approved subject to El Paso filing tariff records 30 to 60 days prior to the facilities going into service stating that the fuel charge will be assessed to only the new firm shippers that will use the expansion facility capacity.

(F) The reclassification of the Willcox Compressor Station from El Paso's mainline system to the Willcox Lateral is granted.

(G) El Paso 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 El Paso. El Paso shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A

Intervenors in Docket Nos. CP12-6-000 and CP12-7-000

Arizona Public Service Company
BP America Production Company and BP Energy Company
ConocoPhillips Company
El Paso Municipal Customer Group
MGI Supply Ltd.
New Mexico Gas Company, Inc.
Shell Energy North America (US), L.P.
Southern California Gas Company and San Diego Gas & Electric Company
Southwest Gas Corporation
Tucson Electric Power Company and UNS Gas, Inc.

Appendix B**AMENDED PERMIT AUTHORIZING EL PASO NATURAL GAS COMPANY
(EL PASO) TO OPERATE, MAINTAIN, AND CONNECT NATURAL GAS
FACILITIES AT THE INTERNATIONAL BOUNDARY BETWEEN THE
UNITED STATES AND MEXICO****FEDERAL ENERGY REGULATORY COMMISSION
Docket No. CP12-7-000**

(Issued October 12, 2012)

El Paso Natural Gas Company (El Paso), a corporation organized under the laws of the State of Delaware, filed on October 7, 2011, in Docket No. CP12-7-000, an application pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 00-004.00A, requesting that the Commission issue an order under section 3 of the Natural Gas Act and an amended Presidential Permit authorizing El Paso to increase the daily natural gas export capacity of its crossing facility at the international boundary between the United States and Mexico connected to the existing MexCobre/Douglas Meter Station via Line No. 20116 from 78,000 Mcf per day to 117,000 Mcf per day.

By letter dated January 12, 2012, the Secretary of State, and by letter dated March 1, 2012, the Secretary of Defense, favorably recommended that this Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of this Permit, allowing the increased export capacity requested by El Paso, 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 El Paso (Permittee) to operate and maintain the natural gas facilities described in Article 2 below, upon the terms and conditions of the Permit.

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

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

A natural gas pipeline segment consisting of sixty feet of 16-inch outer diameter pipeline connecting at the United States-Mexico international boundary near Douglas, Arizona in Cochise County, Arizona, with the facilities of Mexicana de Cobre, S.A. de C.V.

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

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

Article 5. If in the future it should appear to the Secretary of the Defense that any facilities or operations permitted hereunder cause unreasonable obstruction to the free navigation of any of the navigable waters of the United States, the Permittee may be required, upon notice from the Secretary of the Defense, 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 removed at the Permittee's expense, and the Permittee shall have no claim for damages by reason of such possession or removal.

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

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

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

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

IN TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this day of ____, 2012 has caused its name to be signed by _____, [pursuant to a resolution of its Board of Directors duly adopted] on the ____ day of ____, 2012, a certified copy of the record of which is attached hereto.

El Paso Natural Gas Company
By _____

(Attest)

Executed in triplicate

**AMENDED PERMIT AUTHORIZING EL PASO NATURAL GAS COMPANY
(EL PASO) TO OPERATE, MAINTAIN, AND CONNECT NATURAL GAS
FACILITIES AT THE INTERNATIONAL BOUNDARY BETWEEN THE
UNITED STATES AND MEXICO**

**FEDERAL ENERGY REGULATORY COMMISSION
Docket No. CP12-7-000**

(Issued October 12, 2012)

El Paso Natural Gas Company (El Paso), a corporation organized under the laws of the State of Delaware, filed on October 7, 2011, in Docket No. CP12-7-000, an application pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 00-004.00A, requesting that the Commission issue an order under section 3 of the Natural Gas Act and an amended Presidential Permit authorizing El Paso to increase the daily natural gas export capacity of two crossing facilities located in Cochise County, Arizona, at the international boundary between the United States and Mexico. Specifically, El Paso requests authorization to increase the export capacity at the border crossing facility connected to the El Fresnal Meter Station located at the terminus of El Paso's Line No. 2164 from its currently authorized amount of 50,000 Mcf per day to 199,000 Mcf per day. El Paso also requests authorization to increase the export capacity at the border crossing facility connected to the Willmex Meter Station located at the terminus of El Paso's Line No. 2163 from its currently authorized amount of 80,000 Mcf per day to 130,000 Mcf per day.

By letter dated January 12, 2012, the Secretary of State, and by letter dated March 1, 2012, the Secretary of Defense, favorably recommended that this Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of this Permit, allowing the increased export capacity requested by El Paso, 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 El Paso (Permittee) to operate and maintain the natural gas facilities described in Article 2 below, upon the terms and conditions of the Permit.

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

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

Two natural gas pipeline segments, each consisting of sixty feet of 16-inch outer diameter pipeline, with appurtenances, from the El Fresnal Delivery Point near Douglas, Arizona, and from the Willmex Delivery Point, located near the Monument 90 Meter Station, in Cochise County, Arizona.

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

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

Article 5. If in the future it should appear to the Secretary of the Defense that any facilities or operations permitted hereunder cause unreasonable obstruction to the free navigation of any of the navigable waters of the United States, the Permittee may be required, upon notice from the Secretary of the Defense, 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 removed at the Permittee's expense, and the Permittee shall have no claim for damages by reason of such possession or removal.

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

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

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

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

IN TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this day of ____, 2012 has caused its name to be signed by _____, [pursuant to a resolution of its Board of Directors duly adopted] on the ____ day of ____, 2012, a certified copy of the record of which is attached hereto.

El Paso Natural Gas Company
By _____

(Attest)

Executed in triplicate

Appendix C

Environmental Conditions

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

1. El Paso 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 EA, unless modified by the Order. El Paso 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 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 the project construction and operation.
3. **Prior to any construction**, El Paso shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), and contractor personnel would be informed of the EI's authority and have been or would 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**, El Paso 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 the facility 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.

5. El Paso 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 the OEP **before construction in or near that area.**

This requirement does not apply to extra workspaces allowed by El Paso's Environmental Construction Document – October 2011 and/or minor field realignments per landowner needs and requirements which 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 resource 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. **Within 60 days of the acceptance of this Certificate and before construction begins**, El Paso shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. El Paso must file revisions to the plan as schedules change. The plan shall identify:
 - a. how El Paso would implement the construction procedures and mitigation measures described in its application and supplements (including responses to staff data requests), identified in the EA, and required by the Order;
 - b. how El Paso would incorporate these requirements into the 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;
 - c. the number of EIs assigned per spread, and how the company would ensure that sufficient personnel are available to implement the environmental mitigation;

- d. company personnel, including EIs and contractors, who would receive copies of the appropriate material;
 - e. the location and dates of the environmental compliance training and instruction El Paso would give to all personnel involved with 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 sessions);
 - f. the company personnel (if known) and specific portion of El Paso's organization having responsibility for compliance;
 - g. the procedures (including use of contract penalties) El Paso would follow if noncompliance occurs; and
 - h. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - (i) the completion of all required surveys and reports;
 - (ii) the environmental compliance training of onsite personnel;
 - (iii) the start of construction; and
 - (iv) the start and completion of restoration.
7. Beginning with the filing of its Implementation Plan, El Paso shall file updated status reports with the Secretary on a **biweekly** basis **until all construction and restoration activities are complete**. On request, these status reports would also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on El Paso's efforts to obtain the necessary federal authorizations;
 - b. the construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
 - c. a listing of all problems encountered and each instance of noncompliance observed by the EI 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;
 - d. a description of the corrective actions implemented in response to all instances of noncompliance, and their cost;
 - e. the effectiveness of all corrective actions implemented;
 - f. 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
 - g. copies of any correspondence received by El Paso from other federal, state, or local permitting agencies concerning instances of noncompliance, and El Paso's response.

8. **Prior to receiving written authorization from the Director of OEP to commence construction of any project facilities**, El Paso shall file with the Secretary documentation that it has received all authorizations required under federal law (or evidence of waiver thereof).
9. El Paso must receive written authorization from the Director of OEP **before placing the project into service**. Such authorization would only be granted following a determination that rehabilitation and restoration of the right-of-way and other areas affected by the project are proceeding satisfactorily.
10. **Within 30 days of placing the certificated facilities in service**, El Paso 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 would be consistent with all applicable conditions; or
 - b. identifying which of the Certificate conditions El Paso has complied with or would comply with. This statement shall also identify any areas affected by the project where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
11. El Paso shall file a noise survey with the Secretary **no later than 60 days** after modifications to the Wilcox Compressor Station are completed. If the noise attributable to the operation of all of the equipment at the Willcox Compressor Station at full load exceeds an day-night sound level of 55 A-weighted decibels at any nearby noise-sensitive areas, El Paso shall file a report on what changes are needed and shall install the additional noise controls to meet the level **within 1 year** of the in-service date. El Paso shall confirm compliance with the above requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.