

122 FERC ¶ 61,132
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.

El Paso Natural Gas Company

Docket No. CP07-448-000

ORDER ISSUING CERTIFICATE

(Issued February 15, 2008)

1. On September 18, 2007, in Docket No. CP07-448-000, El Paso Natural Gas Company (El Paso) filed an application pursuant to section 7 of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations requesting a certificate of public convenience and necessity to construct and operate the Picacho Compressor Station on its existing East Valley Lateral in Pinal County, Arizona.
2. For the reasons discussed below, the Commission will issue El Paso's requested certificate authorization, as conditioned herein.

I. Background and Proposal

3. El Paso transports natural gas from production areas in New Mexico, Colorado, Texas, and Oklahoma to markets in California, the southwestern United States, and northern Mexico via approximately 11,000 miles of pipeline. In 2006, El Paso was granted certificate authorization to acquire the East Valley Lateral, a 36.72-mile long, 24-inch diameter pipeline located in Pinal County, Arizona, from the Salt River Project Agricultural Improvement and Power District (Salt River).¹ Effective May 25, 2006, El Paso took custody of the East Valley Lateral and integrated it into its interstate pipeline system. The East Valley Lateral currently has a capacity of 342,500 dekatherms per day (Dth/day).
4. El Paso's 2006 acquisition of the East Valley Lateral is subject to two transferable repurchase options, as provided for in Article 4 of the Purchase and Sale Agreement between El Paso, Salt River, and Salt River's assignee, Transwestern Pipeline Company,

¹ *El Paso*, 115 FERC ¶ 61,074 (2006). Salt River, a political subdivision of the State of Arizona, constructed the East Valley Lateral in 2004.

LLC (Transwestern).² The first option permits Salt River or its assignee, to repurchase from El Paso an undivided ownership interest in the East Valley Lateral equal to 203,500 Dth/day of capacity. The second option permits Salt River, or its assignee, to repurchase from El Paso an additional undivided ownership interest equal to 39,000 Dth/day of capacity. If both options are exercised, El Paso will retain an ownership interest equal to 100,000 Dth/day of capacity, which it will continue to use to provide transportation services for its customers in the Phoenix, Arizona area. On November 15, 2007, the Commission authorized Transwestern, as Salt River's assignee, to acquire from El Paso, as part of its Phoenix expansion project, one or both of the ownership interests in the East Valley Lateral.³ Transwestern has exercised the first option to purchase an undivided ownership interest equal to 203,500 Dth/day of capacity in the East Valley Lateral. In its October 1, 2007 intervention in this proceeding, Transwestern notes that it has not yet exercised the second option to purchase an additional undivided ownership equal to 39,000 Dth/day of capacity.

5. El Paso's proposed Picacho Compressor Station will be located on the East Valley Lateral to interconnect with both Transwestern's recently approved Phoenix lateral and El Paso's mainline. Specifically, the proposed compressor station will consist of one Caterpillar 3612 and two Caterpillar 3608 gas-fired reciprocating compressor units totaling approximately 8,290 ISO horsepower. The new compression will increase the East Valley Lateral's capacity from 342,500 Dth/day to 372,500 Dth/day, and, consequently, Transwestern's exercise of its section option would result in its owning 242,500 Dth/day of firm capacity in the East Valley Lateral while El Paso would own 130,000 Dth/day of firm capacity. Thus, construction of the compressor station will ensure that El Paso is able to maintain existing services and also provide El Paso with additional flexibility for service in the Phoenix area, particularly during peak demand periods. El Paso estimates that the Picacho Compressor Station will cost approximately \$23,899,700.

6. El Paso does not request a pre-determination of rolled-in rate treatment for the proposed facilities. Rather, El Paso states that it reserves the right to seek rolled-in rate treatment of the project's costs in its next rate case proceeding.⁴ El Paso further states that it intends to address the method of collection of the fuel costs associated with the

² See El Paso's application at Exhibit R in Docket No. CP06-57-000 (Purchase and Sale Agreement for the East Valley Lateral).

³ See *Transwestern*, 121 FERC ¶ 61,175 (2007) (rehearing pending).

⁴ El Paso notes that in the order granting its certificate authority to acquire the East Valley Lateral from Salt River, the Commission granted El Paso's request to defer a determination of the rate treatment of the acquisition facility until El Paso's next rate case. See *El Paso*, 115 FERC ¶ 61,074.

proposed compressor station in its next rate case or in the next applicable fuel tracker, following the in-service date of the compressor station, and reserves the right to seek rolled-in rate treatment for such fuel costs.

II. Notice, Interventions, and Comments

7. Public notice of El Paso's application was published in the *Federal Register* on October 4, 2007 (72 Fed. Reg. 56,731). The parties listed in Appendix A filed timely, unopposed motions to intervene.⁵ The Arizona Corporation Commission filed a late motion to intervene. We will grant the late motion to intervene as it will not delay, disrupt, or otherwise prejudice this proceeding or the parties thereto.

8. BP America Production Company and BP Energy Company (BP), Southern California Gas Company and San Diego Gas & Electric Company (SoCalGas), Transwestern, and Phelps Dodge Corporation (Phelps Dodge) filed comments.

9. On December 12, 2007, El Paso filed an answer responding to each of the specific capacity and rate issues raised by Phelps Dodge. These issues are discussed below.

10. BP requests that the Commission's order in this proceeding on El Paso's application for its proposed compressor station be clear that the future rate treatment of the proposed facilities and associated fuel costs are not being addressed in this proceeding. SoCalGas wants the order to be clear that if El Paso seeks rolled-in rate treatment in a future rate case, El Paso will have the burden to demonstrate that rolled-in rate treatment is warranted. These issues are addressed below.

11. Transwestern filed comments to clarify that, as discussed on page 16 of El Paso's application, El Paso's proposed compression facilities will not be required to accommodate Transwestern's delivery of up to 203,500 Dth/day into the East Valley Lateral and transportation on that lateral to Salt River's Santan plant. However, Transwestern agrees with El Paso that in order for Transwestern to transport an additional 39,000 Dth/day on the East Valley Lateral, if it exercises its second purchase option, El Paso's proposed compression facilities will be required.

12. In view of Transwestern's comments, Phelps Dodge questions the need for the Picacho Compressor Station, since Transwestern has not yet exercised its second option to acquire additional capacity on the East Valley Lateral. Phelps Dodge further states that Transwestern would not have sufficient upstream capacity for such additional volumes without an upstream expansion. El Paso's clarification of its need for the Picacho Compressor Station is discussed below.

⁵ 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 (2007).

III. Discussion

13. Because El Paso's application pertains to facilities to be used to transport natural gas in interstate commerce, the requested construction and operation of such facilities are subject to the jurisdiction of the Commission and the requirements of section 7(c) of NGA.

A. Policy Statement on New Facilities

14. In order to determine whether a proposed project is required by the public convenience and necessity, we consider whether the proposal meets the criteria set forth in our policy statement addressing new facilities.⁶ In this policy statement, we establish criteria for determining whether there is a need for a proposed project, balance the public benefits of a proposed project against its potential adverse impacts, and determine whether a proposed project will serve the public interest. Our goal in evaluating proposed projects is to give appropriate consideration to: the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, an applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions to the environment, and the avoidance of the unnecessary exercise of eminent domain.

15. Under this policy, the threshold requirement for an existing natural gas company proposing a new project is that the company be prepared to financially support its planned project without relying on subsidization from its existing customers. The next step is to determine whether the company has made efforts to eliminate or minimize any adverse effects the planned project might have on its existing customers, on existing pipelines in the market and their captive customers, or on landowners and communities affected by the planned project. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we then evaluate the planned 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 the economic interests will we proceed to complete the environmental analysis where other interests are considered.

16. Under the terms of the agreement under which El Paso purchased the East Valley Lateral, El Paso agreed, in the event Transwestern ultimately exercised one or both of the repurchase options, to accept gas at a certain pressure at Transwestern's interconnection with the East Valley Lateral and to deliver gas to Salt River's Santan power plant at a certain pressure. As confirmed by the Commission staff's engineering analysis discussed

⁶ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227, at 61,748 (1999); *order on clarification*, 90 FERC ¶ 61,128 (2000); and *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

below, these pressure requirements make El Paso's proposed compression facilities necessary in order to ensure that El Paso is able to maintain its existing deliveries in the Phoenix area, whether or not Transwestern executes its second purchase option for an additional ownership interest and capacity in the East Valley Lateral. Further, the proposed compression will ensure El Paso's ability to provide its customers in the Phoenix area with greater flexibility, particularly in regards to the new premium services that El Paso now offers its customers to meet rapid changes in demand during the day.⁷

17. El Paso has requested deferral of consideration of the appropriate rate treatment for the costs, including fuel, related to the Picacho Compressor Station. El Paso will have the burden of demonstrating that whatever rate treatment it ultimately proposes for the project costs, including fuel, is appropriate. Consequently, we find that the project can proceed without subsidization from existing customers. El Paso's proposal will not have an adverse impact on other pipelines or their customers. Indeed, the proposed compression will be necessary to ensure that Transwestern's volumes can be transported on the East Valley Lateral should Transwestern exercise its second purchase option on the East Valley Lateral. Finally, El Paso's proposal will not require the exercise of eminent domain as El Paso owns the land where it proposes to construct the compressor station. Therefore, consistent with our Certificate Policy Statement and section 7 of the NGA, we find that El Paso's proposal is required by the public convenience and necessity.

B. Engineering Analysis

18. El Paso's East Valley Lateral extends northward from an interconnection with El Paso's high pressure South System Line No. 2000 mainline to Salt River's Santan power plant near Phoenix. As a condition of Salt River's sale of the East Valley Lateral to El Paso, Salt River retained two transferable options to repurchase two undivided interests in capacity equal to 203,500 Dth/day and 39,000 Dth/day, respectively. Because these two options were transferable, Transwestern was able to purchase the repurchase

⁷ These services were accepted by the Commission on March 23, 2006, in Docket No. RP05-422-000. *El Paso Natural Gas Co.*, 114 FERC 61,305, at P 14-21 (2006). The new premium services were designed to provide more firm hourly flexibility for shippers. They include: (1) Hourly Entitlement Enhancement Nominations, an enhanced scheduling right under Rate Schedules FT-1, FT-H, NNTD, and NNTH to increase delivery flexibility; (2) Hourly Firm Transportation Service, which provides defined peak hour limitations and peak hour durations in several different packages, tailored to the different hourly behavior profiles of El Paso's shippers; (3) Firm Daily Balancing Service, a storage-like service using pipeline assets and line pack; (4) Daily and Hourly No-Notice Service; (5) Interruptible Storage Service (ISS); and, (6) Interruptible Hourly Swing Service.

rights in order to acquire capacity in the East Valley Lateral as part of its Phoenix expansion project. In anticipation of Transwestern purchasing the options, another condition of the sale of the East Valley Lateral to El Paso was that El Paso agree to accept gas at a pressure of 600 psig from Transwestern's proposed interconnection with the East Valley Lateral and to deliver gas to Salt River's Santan power plant at a pressure of 525 psig.

19. In its comments, Phelps Dodge contends that the merits of El Paso's proposed compressor station on the East Valley Lateral cannot be fully evaluated without knowing how the project will impact El Paso's upstream mainline capacity. Specifically, Phelps Dodge seeks explanations by El Paso as to: (1) how much system capacity it had prior to the East Valley Lateral acquisition; (2) how much system capacity it had as a result of the East Valley Lateral acquisition; (3) how much system capacity it will have if Transwestern exercises both repurchase options and the proposed compressor station is not constructed; and (4) how much system capacity it will have if Transwestern exercises both options and the compressor station is constructed. In its December 12, 2007 answer, El Paso addressed each of Phelps Dodge's concerns.

20. In response to Phelps Dodge's first question, El Paso states that prior to its acquisition of the East Valley Lateral from Salt River, El Paso was able to deliver about 54,000 Dth/day year-round to the vicinity of the Santan power plant at a pressure of 525 psig. That is, deliveries were limited to the capacity of El Paso's Phoenix lateral system, which consists of its 12-inch Line No. 2222, which is supplied by its Line No. 1124.

21. In response to Phelps Dodge's second question, El Paso states that as a result of the East Valley Lateral acquisition in 2006, it can deliver gas at the required 525 psig to Salt River's Santan power plant and provide additional operational system support to the rest of the Phoenix lateral system.⁸ El Paso explains that with its current configuration, Line No. 2000⁹ can provide 342,500 Dth/day to El Paso's Phoenix lateral system, while maintaining a delivery pressure in excess of 525 psig at the Santan power plant and providing additional support to the rest of the Phoenix lateral system.¹⁰ In addition, El Paso states that the East Valley Lateral provides greater operational support to the rest of El Paso's Phoenix lateral system.

⁸ El Paso states that the pressure at the interconnection of Line No. 2222 and the East Valley Lateral will be approximately 715 psig, which is close to the Line No. 2222 maximum allowable operating pressure of 720 psig.

⁹ Line No. 2000 is one on the lines which make up El Paso's southern mainline high pressure system.

¹⁰ See El Paso's December 12, 2007 response at p. 4.

22. El Paso disputes Phelps Dodge's assertion that El Paso's acquisition of the East Valley Lateral freed up capacity on El Paso's low pressure mainline system. El Paso explains that its East Valley Lateral acquisition enabled it to introduce more gas into the eastern portion of the Phoenix area from its high pressure mainline system, while gas formerly delivered through its lower pressure mainline system now moves to points west of Phoenix. In addition, El Paso states that by feeding more gas from its high pressure mainline, it will be able to provide higher operating pressures and greater flexibility on its Phoenix system.¹¹ This new operational design, El Paso avers, will increase operational flexibility through higher operating pressures on El Paso's systems providing gas to the Phoenix area.¹² Thus, El Paso concludes, the acquisition of the East Valley Lateral did not increase the capacity on El Paso's southern mainline system.¹³

23. The Commission staff performed an engineering analysis and concurs with El Paso's free-flowing capacity figure of 342,500 Dth/day for the East Valley Lateral without the proposed compression. This capacity is only made possible if the gas volumes are delivered into the Phoenix lateral system at the prevailing design pressure of 870 psig on El Paso's Line No. 2000. If the operating pressures on Line No. 2000 decrease, the Commission staff's engineering analysis confirms that both capacity and delivery flexibility will also decrease. Therefore, El Paso's ability to transport 342,500 Dth/day is directly dependent upon the operating pressures on Line No. 2000.

24. The Commission also examined Phelps Dodge's allegation that the acquisition of the East Valley Lateral by El Paso created freed up mainline capacity on El Paso's southern mainline system. Based upon staff's analysis, El Paso is correct that its acquisition of the East Valley Lateral did not free up or increase capacity on El Paso's southern mainline system. Staff's review and analysis of the engineering information shows that capacity on El Paso's southern mainline system does not change as a result of the acquisition and integrated operation of the East Valley Lateral. However, what does change is the introduction of gas supplies directly into the eastern portion of the Phoenix area through the East Valley Lateral. By transporting additional gas volumes through the East Valley Lateral in lieu of El Paso's Phoenix lateral system, El Paso can maintain higher delivery pressures to the Phoenix market area, thereby increasing delivery flexibility.

25. In response to Phelps Dodge's third question regarding the amount of capacity the East Valley Lateral will have if the Picacho Compressor Station is not built and

¹¹ See El Paso's December 12, 2007 response at p. 5, n.11. See also El Paso's application at Exhibit G, p. 6 in Docket No. CP06-57-000.

¹² See El Paso's application at Exhibit G, p. 6 in Docket No. CP06-57-000.

¹³ See El Paso's December 12, 2007 response at p. 5.

Transwestern exercises both options, El Paso explains that the capacity on the East Valley Lateral will be 203,500 Dth/day. This capacity is a result of the requirement to accept gas supplies from the East Valley Lateral's interconnection with Transwestern at a pressure of 600 psig, while maintaining a delivery pressure of 525 psig in the vicinity of the Santan power plant.

26. The Commission concurs with the capacity figures calculated by El Paso under this operating scenario. Staff's analysis of El Paso's East Valley Lateral shows that the capacity into the eastern portion of Phoenix is limited by the requirements to accept gas supplies from the Transwestern interconnect with El Paso at 600 psig and deliver gas in the vicinity of Salt River's Santan power plant at 525 psig. As previously discussed, El Paso's capacity into the Phoenix area is dependent upon the prevailing line pressures on El Paso's southern mainline system. When the operating pressures decrease, El Paso's ability to transport gas supplies to the Phoenix area also decreases. Under these operating conditions, the Commission confirms that the capacity of the East Valley Lateral is limited to 203,500 Dth/day based upon a receipt pressure of 600 psig from Transwestern and a delivery pressure of 525 psig to the Santan power plant.

27. To address Phelps Dodge's fourth capacity question, El Paso states that the capacity on the East Valley Lateral will be 372,500 Dth/day assuming Transwestern exercises both options and the Picacho Compressor Station is constructed.¹⁴ El Paso explains that this capacity would allow for the delivery of up to approximately 242,500 Dth/day of gas to Salt River's Santan power plant and up to 130,000 Dth/day of capacity to support El Paso's Phoenix lateral system operations. El Paso states that the Picacho Compressor Station would allow for a 600 psig receipt pressure at the Transwestern interconnect with El Paso, while maintaining operating pressures in excess of the 525 psig contractual pressure obligation in the vicinity of the Santan power plant. Under this operating scenario, El Paso claims these conditions will maximize operational support for both the East Valley Lateral and the Phoenix lateral system.

28. The Commission confirms El Paso's calculated capacity into the Phoenix area after the addition of the Picacho Compressor Station, as proposed in this proceeding. Commission staff's analysis shows that the Picacho Compressor Station provides the necessary horsepower of compression to re-pressurize the gas stream through the East Valley Lateral in order to transport 372,500 Dth/day to the eastern portion of Phoenix. In doing so, El Paso's proposed Picacho Compressor Station will maintain receipt and delivery pressure obligations on the East Valley Lateral while also providing increased operational flexibility due to delivery pressures in the Phoenix area which exceed the minimum delivery pressure of 525 psig.

¹⁴ See El Paso's application at p. 12-14 and Exhibits G and G-1.

29. Phelps Dodge's final operational question requests that El Paso explain why the Picacho Compressor Station is needed, given that Transwestern has yet to execute its second capacity option in the East Valley Lateral. El Paso explains that the operational requirements for the Phoenix area will exceed the available operating capacity of the Phoenix lateral system and the East Valley Lateral without the requested Picacho Compressor Station. Without additional compression facilities, El Paso states that it will not be able to transport gas volumes in excess of 203,500 Dth/day through the East Valley Lateral while maintaining both a receipt pressure of 600 psig at the Transwestern interconnect with El Paso at the East Valley Lateral and a delivery pressure of 525 psig in the vicinity of the Santan power plant. El Paso states the proposed Picacho Compressor Station is the most effective solution for fulfilling the capacity requirements and will provide greater flexibility for its shippers in the Phoenix area.¹⁵

30. The Commission concurs with El Paso's statement that the Picacho Compressor Station is necessary in order for El Paso to transport gas volumes in excess of 203,500 Dth/day through the East Valley Lateral given the contractual pressure constraints at the Transwestern interconnect and the Santan power plant. As already discussed above, without the Picacho Compressor Station, the Commission concludes that El Paso will not be able to transport gas volumes in excess of 203,500 Dth/day through the East Valley Lateral while maintaining both a receipt pressure of 600 psig at the Transwestern interconnect with El Paso at the East Valley Lateral and a delivery pressure of 525 psig in the vicinity of the Santan power plant. Since El Paso's existing system is unable to meet the contractual delivery volume and pressure requirements without compression facilities, the Commission concludes that El Paso has properly designed the Picacho Compressor Station to transport 372,500 Dth/day of gas through the East Valley Lateral.

C. Rates

31. El Paso has requested that we defer consideration of the appropriate rate treatment of the Picacho Compressor Station and the associated fuel costs to an appropriate rate proceeding. In our previous order authorizing El Paso's acquisition of the East Valley Lateral, we deferred a finding on the rate treatment to El Paso's next rate case. We find that because of the relationship between this proposal and the East Valley Lateral acquisition, it is appropriate to defer a decision regarding the rate treatment of the facilities and fuel costs to future rate proceedings. El Paso shall bear the burden of proof regarding its ultimate proposal regarding rate treatment for the facilities and fuel costs in those proceedings.

32. In regards to Phelps Dodge's question regarding the treatment of revenues from service provided on the lateral, El Paso's revenues associated with the East Valley Lateral facilities are considered, under its tariff, to be part of its Total Jurisdictional Revenues.

¹⁵ See El Paso's December 12, 2007 response at p. 6-7.

Pursuant to section 42.1 of El Paso's tariff, such revenues include revenues collected under all of El Paso's rate schedules and every calendar year a percentage of any revenues exceeding an amount as determined under the tariff provision must be credited to shippers.¹⁶

D. Environmental

33. On October 26, 2007, the Commission issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Picacho Compressor Station Project and Request for Comments on Environmental Issues (NOI). In response to the NOI we received a comment letter on November 9, 2007, from a private landowner, Earl Hannah, as discussed below.

34. Our staff prepared an environmental assessment (EA) that addresses geology, soils, water resources, wetlands, fisheries, vegetation, wildlife, land use, visual resources, threatened and endangered species, cultural resources, air and noise quality, safety and reliability, cumulative impacts, and alternatives. On January 17, 2008, we received an additional comment letter from Mr. Hannah, subsequent to the issuance of the EA on December 20, 2007.

35. Mr. Hannah expressed concern about noise and air quality impacts resulting from the construction and operation of the Picacho Compressor Station. The EA addressed Mr. Hannah's concern about operational noise from the compressor station and concludes that the noise attributable to operation of the Picacho Compressor Station would not have a significant impact on noise levels at Mr. Hannah's residence. Staff's analysis shows that the noise levels of the Picacho Compressor Station at Mr. Hannah's residence will be relatively low, no greater than 45.1 L_{eq}. Mr. Hannah's additional comment letter received on January 17, 2008, reiterates his concern about noise attributable to the Picacho Compressor Station at his residence and his wife's sensitivity to noise due to an illness. Mr. Hannah requested that the Commission require El Paso install electric-driven compressor units instead of the proposed gas-driven units to reduce the noise levels resulting from the compressor station at his residence.

36. There is not any assurance of a significant difference in noise between electric motors and gas engines. Effective noise attenuation is achieved by other equipment, such as exhaust silencers, installed on the compressor engines. El Paso has committed to install hospital-grade inlet and exhaust silencing on the engines, quiet fans on the gas cooler, a vent stack filter, and to construct a compressor building with increased noise dampening abilities to mitigate noise attributable to the Picacho Compressor Station. As

¹⁶ See also section 2.3 of the "Stipulation and Agreement" filed in Docket No. RP05-422-000 on December 6, 2006, approved by, *El Paso Natural Gas Co.*, 120 FERC ¶ 61,208 (2007).

discussed in the EA, our staff has determined these noise control measures will minimize the compressor station noise at Mr. Hannah's residence. Condition No. 4 also directs El Paso to ensure that noise attributable to the operation of the Picacho Compressor Station will not exceed a day-night noise level (L_{dn}) of 55 dBA.

37. In response to Mr. Hannah's air quality concerns, the Commission notes that El Paso must obtain a Pinal County Air Quality Earthmoving Activity Permit and adhere to its requirements in order to mitigate air quality impacts resulting from construction of the compressor station. In addition, El Paso has committed to pave the access road which extends from the compressor station site to Randolph Road to reduce fugitive dust emissions. Impacts on air quality due to operation of the compressor station would be minimized by strict adherence to all applicable federal and state regulations. Emissions associated with the construction phase would be short-term in nature and would not result in significant impact on local air quality.

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

39. 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 replacement or operation of facilities approved by this Commission.¹⁷ El Paso shall notify the Commission's environmental staff by telephone 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 within 24 hours.

IV. Summary

40. For the reasons discussed above, we find El Paso's proposal to be in the public convenience and necessity, subject to the conditions described herein. Further, we will not make a determination at this time as to the appropriate rate treatment for the Picacho

¹⁷See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

Compressor Station and will defer a determination to the appropriate rate proceeding where El Paso will have the burden of proof regarding the rate treatment it ultimately proposes for facilities and fuel associated with the Picacho Compressor Station.

41. 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,

The Commission orders:

(A) A certificate of public convenience and necessity is issued to El Paso under section 7(c) of the NGA authorizing the construction and operation of the Picacho Compressor Station, as described in this order and the application and supplements, as conditioned herein, and subject to the environmental conditions set forth in Appendix B of this order.

(B) The certificate authority granted in Ordering Paragraph (A) is conditioned on El Paso:

- (1) Constructing and making available for service the facilities described herein within one year of this final order, pursuant to paragraph (b) of section 157.20 of the Commission's regulations;
- (2) Complying with all regulations under the NGA including, but not limited to, Parts 154 and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations; and
- (3) Complying with specific environmental conditions in Appendix B.

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

(D) The motion to intervene out-of-time by the Arizona Corporation Commission is granted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A

Parties Who Filed Motions to Intervene in Docket No. CP07-448-000

Arizona Corporation Commission (late)
Arizona Electric Power Cooperative, Inc.
Arizona Public Service Company
BP America Production Company and BP Energy Company
El Paso Electric Company
El Paso Municipal Customer Group¹⁸
Gila River Power, L.P.
New Harquahala Generating Company, LLC
Occidental Energy Marketing, Inc.
Phelps Dodge Corporation
Salt River Project Agricultural Improvement and Power District
Southern California Edison Company
Southern California Gas Company and San Diego Gas & Electric Company
Southwest Gas Corporation
Transwestern Pipeline Company, LLC
UNS Gas, Inc. and Tucson Electric Power Company

¹⁸ The El Paso Municipal Customer Group consists of the City of Mesa, Arizona, City of Safford, Arizona, City of Benson, Arizona, City of Willcox, Arizona, City of Las Cruces, New Mexico, City of Socorro, New Mexico, City of Deming, New Mexico, the Navajo Tribal Utility Authority, Graham County, Utilities, Inc., and Duncan Rural Service Corporation.

Appendix B

Environmental Conditions for El Paso's Project in Docket No. CP07-448-000

As recommended in the environmental assessment, this authorization includes the following conditions:

1. El Paso Natural Gas Company (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 environmental assessment, unless modified by the Commission 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 the Office of Energy Projects (OEP) before using that modification.
2. The Director of OEP has delegated 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 Commission 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**, El Paso shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EI), and contractor personnel will be informed of the EI'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. El Paso shall make all reasonable efforts to assure its predicted noise levels from the Picacho Compressor Station are not exceeded at nearby noise-sensitive areas (NSA) and file the results of noise surveys showing this with the Secretary **no**

later than 60 days after placing the Picacho Compressor Station in service. If the noise attributable to the operation of the Picacho Compressor Station at full load exceeds a day-night noise level (L_{dn}) of 55 decibels on the A-weighted scale at any nearby NSAs, El Paso shall file a report on what changes are needed and shall install additional noise controls to meet the level **within 1 year** of the in-service date. El Paso shall confirm compliance with this requirement by filing the results of a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.