

161 FERC ¶ 61,084  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Cheryl A. LaFleur, and Robert F. Powelson.

Valley Crossing Pipeline, LLC

Docket No. CP17-19-000

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

(Issued October 23, 2017)

1. On November 21, 2016, Valley Crossing Pipeline, LLC (Valley Crossing) filed an application seeking a Presidential Permit and authorization under section 3 of the Natural Gas Act (NGA)<sup>1</sup> to site, construct, and operate a border-crossing facility (Border Crossing Project) for the import and export of natural gas at the international boundary between the United States and the Republic of Mexico, in Texas state waters in the Gulf of Mexico near Cameron County, Texas.<sup>2</sup>
2. For the reasons discussed below, the Commission will grant the requested authorizations, subject to certain conditions.

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<sup>1</sup> 15 U.S.C. § 717b (2012); 18 C.F.R. pt. 153 (2017) (implementing regulations).

<sup>2</sup> Authorization under section 3 of the NGA is necessary for the siting, construction, or operation of facilities to import or export natural gas. In addition, pursuant to Executive Order No. 10485, dated September 3, 1953 (18 Fed. Reg. 5397), as amended by Executive Order No. 12038, dated February 3, 1978 (43 Fed. Reg. 4957), a Presidential Permit also must be obtained for the portion of an import or export facility crossing one of the United States' international borders. In Delegation Order No. 00-004.00A, effective May 16, 2006, the Secretary of the U.S. Department of Energy (DOE) renewed the delegation of authority to the Commission to grant or deny authorization under section 3 of the NGA and, if applicable, a Presidential Permit for the construction, operation, maintenance, or connection of import and export facilities. The Commission has no authority to approve or disapprove applications to import or export natural gas. The Secretary of Energy has delegated such authority to DOE's Assistant Secretary for Fossil Energy.

## **I. Background and Proposal**

3. Valley Crossing is a limited liability company organized under the laws of **Delaware. Valley Crossing is owned by Spectra Energy Transmission II, LLC, an affiliate of Spectra Energy Corp.**<sup>3</sup> Valley Crossing does not currently own any pipeline facilities or engage in any natural gas transportation services.

4. Valley Crossing proposes to construct and operate a border-crossing facility consisting of approximately 1,000 feet of 42-inch-diameter pipeline extending from a point in Texas state waters approximately 30 miles east of the City of Brownsville in Cameron County, Texas, to the international boundary with the State of Tamaulipas, Mexico in the Gulf of Mexico. The pipeline will be placed by an anchored pipe-lay barge and buried approximately three feet under the seafloor using a jetting sled. It will have a design capacity of 2.6 billion cubic feet (Bcf) per day and a maximum allowable operating pressure of 3,000 pounds per square inch gauge. Valley Crossing states that Infraestructura Marina del Golfo, S. de R.L. de C.V. (Marina), an unaffiliated Mexican pipeline, will construct approximately 500 miles of pipeline on the Mexican side of the border that will interconnect with the border-crossing facility.<sup>4</sup>

5. Currently, Valley Crossing is constructing an upstream, intrastate pipeline in Texas, known as the Valley Crossing Pipeline, which will extend southwest from a header system in Nueces County, Texas, near the Agua Dulce Hub, to the proposed border-crossing facility.<sup>5</sup> Specifically, the intrastate pipeline will consist of approximately 165 miles of 42- and 48-inch-diameter pipeline, two compressor stations, multiple meter stations, and ancillary facilities with a total capacity of 2.6 Bcf per day. Valley Crossing states that the pipeline will initially interconnect with other Texas intrastate and gathering pipelines and provide intrastate transportation service, but that

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<sup>3</sup> Through its subsidiaries and affiliates, Spectra Energy Corp owns and operates approximately 21,000 miles of natural gas, crude oil, and natural gas liquids pipelines. On February 27, 2017, Spectra Energy Corp and Enbridge Inc. closed on a merger between the companies which resulted in Spectra Energy Corp becoming an indirect, wholly owned subsidiary of Enbridge, Inc.

<sup>4</sup> Marina's pipeline will run from the border-crossing facility to the Mexican Gulf port of Tuxpan.

<sup>5</sup> The Valley Crossing Pipeline will be subject to the jurisdiction of the Railroad Commission of Texas.

ultimately it intends to interconnect with interstate pipelines and provide transportation services under section 311 of the Natural Gas Policy Act of 1978 (NGPA).<sup>6</sup>

6. Valley Crossing states that the proposed border-crossing facility will deliver gas to Marina to help meet the demands of Mexico's expanding electric generation and industrial markets.<sup>7</sup>

## **II. Public Notice, Interventions, and Comments**

7. Notice of Valley Crossing's application was published in the *Federal Register* on December 8, 2016.<sup>8</sup> The due date for interventions, comments, and protests was December 23, 2016. The parties listed in Appendix A to this order filed timely, unopposed motions to intervene, which are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.<sup>9</sup> On February 2, 2017, NextEra Energy Resources, the owner of an intrastate pipeline operating in Texas, filed a late motion to intervene. We will grant this motion pursuant to Rule 214 of the Commission's regulations.<sup>10</sup>

8. Sierra Club's motion to intervene included a protest. On January 9, 2017, Valley Crossing filed an answer to Sierra Club's protest. Although the Commission's Rules of Practice and Procedure do not permit answers to protests, the Commission finds good cause to waive its rules and accept the answer because it provides information that has assisted us in our decision making.<sup>11</sup> The concerns raised by Sierra Club, as well as other commenters, are addressed below and in the Environmental Assessment (EA).

## **III. Consultation with Secretaries of State and Defense**

9. On December 22, 2016, the Commission sent copies of the application and a draft Presidential Permit to the Secretaries of State and Defense for their recommendations.

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<sup>6</sup> 15 U.S.C. § 3371 (2012). Valley Crossing's Application at 4 and 9-10.

<sup>7</sup> Valley Crossing states that it will enter into an interconnection and operating agreement with Marina.

<sup>8</sup> 81 Fed. Reg 88,675.

<sup>9</sup> 18 C.F.R. § 385.214(c)(1) (2017).

<sup>10</sup> *See* 18 C.F.R. § 385.214(c)(2) (2017).

<sup>11</sup> 18 C.F.R. § 385.213(a)(2) (2017).

Replies on behalf of the Secretary of State dated April 11, 2017, and the Secretary of Defense dated February 22, 2017, indicate no objection to the issuance of the requested Presidential Permit.<sup>12</sup>

#### IV. Discussion

##### A. Public Interest

10. Because the proposed facility will be used to import and export natural gas across the international border between the United States and Mexico, the siting, construction, and operation of the facility is subject to the Commission's jurisdiction under section 3 of the NGA.

11. Section 3 provides for the Commission's approval of an application under that section "unless . . . it finds that the proposed exportation and importation will not be consistent with the public interest."<sup>13</sup> Consistent with its jurisdiction under section 3, the Commission may also apply terms and conditions as necessary and appropriate to ensure that the proposed siting, construction, and operation are not inconsistent with the public interest.<sup>14</sup>

12. Many commenters contend that approval of the Border Crossing Project is not in the public interest because gas exports are detrimental to domestic energy markets. Section 3(a) of the NGA provides, in part, that "no person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the Commission authorizing it to do so."<sup>15</sup> In 1977, the DOE Organization Act transferred the regulatory functions of section 3 of the NGA to the Secretary of Energy.<sup>16</sup> Subsequently, the Secretary of Energy delegated to the Commission authority to "[a]pprove or disapprove the construction and operation of particular facilities, the site at which such facilities shall

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<sup>12</sup> Executive Order No. 10485, 18 Fed. Reg. 5397 (September 3, 1953), requires that the Commission obtain favorable recommendations of the Secretaries of State and Defense prior to issuing a Presidential Permit authorizing the construction of facilities at the borders of the United States for the exportation or importation of natural gas.

<sup>13</sup> 15 U.S.C. § 717b(a).

<sup>14</sup> *Id.*

<sup>15</sup> 15 U.S.C. § 717b(a) (2012).

<sup>16</sup> *See* 42 U.S.C. § 7151(b) (2012).

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.”<sup>17</sup> The Secretary of Energy, however, has not delegated to the Commission any authority to approve or disapprove the import or export of the commodity of natural gas as part of the Commission’s public interest determination under NGA section 3(a).<sup>18</sup> Thus, the claims by commenters discounting the value or need for gas exports are beyond the Commission’s purview and are not appropriately addressed here. Moreover, as described below, the border-crossing project is fully subscribed by Comisión Federal de Electricidad (CFE), an electric power company in Mexico, and will help CFE meet Mexico’s growing demands for power generation and other industrial uses.

13. Further, NGA section 3 provides that the exportation and importation of natural gas between the United States and “a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest, and applications for such importation and exportation shall be granted without modification or delay.”<sup>19</sup> This applies to the natural gas to be transported by the proposed project, as the United States and Mexico are signatories to the North American Free Trade Agreement.<sup>20</sup> The border-crossing facilities are necessary to export gas that is being produced in the United States for sale to expanding energy and industrial markets in Mexico. Authorization for construction of the facilities herein 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.<sup>21</sup>

14. Many commenters also contend that construction of the border-crossing facility will result in harm to the marine environment. As discussed below, construction and operation of the border-crossing facility will have minimal environmental impacts; Valley Crossing plans to bury approximately 1,000 feet of pipe three feet below the

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<sup>17</sup> DOE Delegation Order No. 00-004.00A (effective May 16, 2006).

<sup>18</sup> *See, e.g., National Steel Corp.*, 45 FERC ¶ 61,100, at 61,332-33 (1988).

<sup>19</sup> 15 U.S.C. § 717b(b).

<sup>20</sup> Pub. L. No. 103-182, 107 Stat. 2057 (1993); Implementation of the North American Free Trade Agreement Act, Executive Order No. 12889, 58 Fed. Reg. 69,681 (Dec. 27, 1993).

<sup>21</sup> *See* 10 C.F.R. § 590.202 (2017). Valley Crossing states that it intends to seek approval to export gas from DOE’s Office of Fossil Energy 90 days prior to the start of construction. *See* Application, Resource Report 1, section 1.7, table 1-1.

seafloor within a 50-foot-wide construction corridor, encompassing approximately 1.1 acres of seafloor, while barge anchors and cable sweeps in and around the construction corridor will temporarily impact approximately 100 acres of seafloor.<sup>22</sup> After construction, disturbed areas will return to preconstruction condition. Thus, as discussed below and in the EA, the project will not have significant direct or indirect impacts on the marine environment, if it is constructed and operated in compliance with the conditions in Appendix B to this order.

15. In view of the above considerations, the Commission finds that approval of the cross-border facility is not inconsistent with the public interest. Therefore, the Commission will issue a Presidential Permit, as set forth in Appendix C to this order, and NGA section 3 authorization to site, construct, and operate the cross-border facility. However, the Commission will exercise its discretion under section 3 of the NGA to make its grant of authorization “upon such terms and conditions as the Commission may find necessary or appropriate.”

#### **B. Jurisdictional Status of Valley Crossing’s Upstream Pipeline Facilities**

16. Sierra Club and other commenters allege that the construction of the upstream, intrastate Valley Crossing Pipeline should be subject to the Commission’s NGA section 7(c) jurisdiction because the pipeline will transport gas in interstate commerce as soon as it is placed in service. Specifically, they allege that the Valley Crossing Pipeline will be interconnected with multiple interstate pipelines when service begins. Alternatively, they state that the Commission should exercise its NGA section 7(c) jurisdiction because the Valley Crossing Pipeline will transport gas in interstate commerce soon after it commences service.

17. Section 1(b) of the NGA provides, among other things, that the NGA “shall apply to the transportation of natural gas in interstate commerce . . . and to the importation or exportation of natural gas in foreign commerce.”<sup>23</sup> As the NGA provides separate treatment of these subjects, interstate commerce and foreign commerce are distinct terms

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<sup>22</sup> All domestic lands impacted by construction of the border crossing facilities are owned the Texas General Land Office.

<sup>23</sup> 15 U.S.C. § 717 (2012).

and one is not inclusive of the other.<sup>24</sup> The legislative history of the NGA similarly demonstrates that the definition of interstate commerce does not include foreign commerce.<sup>25</sup>

18. When a company constructs a pipeline to import or export volumes of natural gas, only a small segment of the pipeline close to the border is deemed to be the import or export facility for which section 3 authorization is necessary; the rest of the pipeline may be jurisdictional under section 7, if it will be used to transport gas in interstate commerce, or it may be NGA-exempt, if it will be used to gather gas or for intrastate transportation service.<sup>26</sup> Here, Sierra Club contends that the upstream pipeline is jurisdictional under section 7 because Valley Crossing's upstream facilities in Nueces County, Texas, will include interconnections with interstate pipelines. Sierra Club relies on our statement in *Georgia Strait Crossing Pipeline LP (Georgia Strait)* that "it is immaterial how much

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<sup>24</sup> See *Border Pipe Line Co. v. FPC*, 171 F.2d 149, 150-151 (D.C. Cir. 1948) (*Border*) (explaining that "'interstate commerce' does not include foreign commerce, unless Congress by definition for the purpose of a particular statute includes them both in the single expression."). See also *Distrigas Corp. v. FPC*, 495 F.2d 1057, 1062 (D.C. Cir. 1974), *cert. denied*, 419 U.S. 834 (1974).

<sup>25</sup> See *Border*, 171 F.2d at 151 (discussing the legislative history of the NGA and concluding that Congress intentionally excluded foreign commerce from the definition of interstate commerce).

<sup>26</sup> See *Southern LNG Inc.*, 131 FERC ¶ 61,155, at n.17 (2010) ("[w]hen companies construct a pipeline to transport import or export volumes, only a small segment of the pipeline close to the border is deemed to be the import or export facility for which section 3 authorization is necessary; the rest of the pipeline may be jurisdictional under section 7 because it will be used to transport gas in interstate commerce or NGA-exempt because it will be used to gather gas or for intrastate transportation service."). See also *Western Gas Interstate Co.*, 59 FERC ¶ 61,022, at 61,048-49 (1992) ("In addition to our review of the site of exportation, a Presidential Permit and a section 3 application has always required an inquiry into the regulatory authority under which the gas will be transported from within the United States to the point of exportation. The scope of the Commission's jurisdiction under section 7 of the NGA depends upon whether the gas is to be transported in interstate or foreign commerce or both. . . . If the gas is being transported in both interstate and foreign commerce, the Commission has section 3 jurisdiction over the point of export/importation and section 7 jurisdiction over the facilities up to or from the point of export/importation.").

gas” is transported in interstate commerce to conclude that a connection to an interstate pipeline places Valley Crossing’s pipeline in interstate service.<sup>27</sup>

19. Because Valley Crossing’s intrastate pipeline will include interconnections to interstate pipelines, Sierra Club assumes that some interstate gas will flow through the interconnections into the Valley Crossing Pipeline immediately upon commencement of service. However, nothing in the record supports Sierra Club’s premise. Rather, the record shows that Valley Crossing’s pipeline will be located entirely in Texas and, when it begins service, it will only transport Texas gas production received from other Texas intrastate pipelines or processing plants within Texas or to the proposed border-crossing facility.<sup>28</sup> The mere existence of a physical interconnection with an interstate pipeline is not sufficient to bring an intrastate pipeline under the Commission’s jurisdiction, since being capable of receiving interstate gas is not the same as actually receiving it.<sup>29</sup> Since Valley Crossing will initially neither receive nor transport any gas flowing in interstate commerce, the Valley Crossing Pipeline is not subject to the Commission’s jurisdiction under section 7 of the NGA.<sup>30</sup>

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<sup>27</sup> 100 FERC ¶ 61,280, at P 30 (2002) (explaining that section 7 jurisdiction does not depend on the quantity or method of gas transportation in interstate commerce, so long as some interstate gas flows in the pipeline).

<sup>28</sup> Valley Crossing January 9, 2017 Answer at 9.

<sup>29</sup> In *Trans-Pecos Pipeline, LLC*, 155 FERC ¶ 61,140 (2016), the Commission authorized Trans-Pecos to site, construct, and operate border-crossing facilities, which were connected to an upstream intrastate pipeline. As here, Trans-Pecos connected its intrastate pipeline to interstate pipelines prior to beginning service, but gas did not flow from the interstate pipelines into the intrastate line. Trans-Pecos, Response to FERC July 1, 2015 Data Request, Docket No. CP15-500-000, at 2 (filed July 8, 2015); *see also NET Mexico Pipeline Partners, LLC*, 145 FERC ¶ 61,112 (2013) (authorizing section 3 border-crossing facilities connected to a non-jurisdictional upstream intrastate pipeline serviced by a header system with connections to four intrastate and two interstate pipelines). The Commission did not assert jurisdiction over the intrastate pipeline.

<sup>30</sup> Some commenters allege that the Valley Crossing Pipeline is jurisdictional because it will transport gas to liquefied natural gas (LNG) facilities sited along the Texas coastline. Transporting gas to an LNG facility for export does not confer NGA section 7 jurisdiction on an otherwise intrastate pipeline. *See, e.g., Corpus Christi Liquefaction, LLC*, 149 FERC ¶ 61,283 (2014) (providing section 3 authorization to LNG facilities with interconnections to interstate and intrastate natural gas pipeline systems). In



20. While the Valley Crossing Pipeline will transport gas being exported to Mexico in foreign commerce, only a small segment of the pipeline near the border is deemed under Commission precedent to be the import/export facility for which section 3 authorization is necessary.<sup>31</sup> Further, while Commission authorization under section 3 of the NGA and a Presidential Permit are required for the facility at the border necessary to effectuate the commodity export, the border-crossing facility will be operated as part of Valley Crossing's NGA-exempt intrastate pipeline system. Thus, the rates and terms and conditions of service will be subject to regulation by the Railroad Commission of Texas, notwithstanding that the gas is being exported.

21. Sierra Club and other commenters also contend that Valley Crossing's planned intrastate pipeline is jurisdictional because it will provide interstate transportation at some point after its construction. However, we will not seek to exercise jurisdiction based on an expectation of future changes to a project's operation.<sup>32</sup> Moreover, if Valley Crossing uses its facilities to provide, at some point in the future, qualifying interstate transportation service under section 311(a)(2) of the NGPA, under that Act the Commission's jurisdiction will extend only to the service; such transportation service will not subject Valley Crossing's pipeline facilities to the Commission's jurisdiction, under either

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addition, there is nothing in the record that indicates that Valley Crossing will transport gas to LNG facilities.

<sup>31</sup> See, e.g., *NET Mexico Pipeline Partners, LLC*, 145 FERC ¶ 61,112 at PP 1-7 (granting section 3 authorization and a Presidential Permit to applicant for 1,400 feet of pipeline at the Mexican border that would be part of a non-jurisdictional 120-mile-long intrastate pipeline that applicant also planned to use in the future for jurisdictional interstate service under section 311 of the NGPA). Similarly, when the Commission approves an application by a jurisdictional interstate pipeline to construct facilities to transport gas for export, the NGA section 3 authorization and Presidential Permit are for only a relatively short section of pipeline closest to the international border. See, e.g., *Tennessee Gas Pipeline Co.*, 101 FERC ¶ 61,360 (2002) (authorizing 9.28 miles of pipeline facilities to transport gas for export to Mexico under NGA section 7 certificate authority except for the 1,000 feet of pipeline closest to the international border which was authorized under NGA section 3 and a Presidential Permit as the border-crossing export facility.).

<sup>32</sup> See *Georgia Strait*, 100 FERC ¶ 61,280 at P 31.

section 311 of the NGPA or under section 7 of the NGA.<sup>33</sup> The Commission's jurisdiction over the construction and operation of Valley Crossing's pipeline facilities is limited to the facilities that constitute export facilities at the point of export.<sup>34</sup> The remaining 165 miles of upstream pipeline facilities sited in Texas are subject to state jurisdiction. However, as discussed below, the Commission's environmental review did disclose impacts associated with construction of the non-jurisdictional pipeline and considered whether construction of the jurisdictional border-crossing facility and the non-jurisdictional upstream pipeline facilities could have potential cumulative environmental impacts.

22. Finally, Sierra Club asserts that Valley Crossing cannot use the intrastate pipeline to transport gas under section 311 of the NGPA because Valley Crossing is a new pipeline company with no existing intrastate facilities. However, in situations analogous to the one presented here, the Commission has consistently recognized that a new

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<sup>33</sup> See, e.g., *Egan Hub Partners, L.P.*, 73 FERC ¶ 61,334, at 61,930 (1995):

NGPA sections 601(a)(1)(C) and (a)(2)(A) provide that intrastate pipelines do not become subject to the NGA by virtue of section 311 transactions. Moreover, in Order No. 46, the Commission explained that "if a corporate entity qualifies as an intrastate pipeline under [NGPA] section 2(16), it will retain that identity for its entire system even if it constructs a new portion of its system to be used exclusively for section 311(a)(2) transportation." ... When the NGPA was promulgated in 1978, substantial amounts of gas were locked into the intrastate market in the face of nationwide supply shortages. To advance the NGPA goal of alleviating this situation, Congress adopted policies to encourage sellers and transporters to provide service under section 311 of the NGPA as much as possible .... The ability to utilize existing intrastate facilities to move intrastate gas into interstate markets and the construction of additional facilities for section 311 services, when necessary, by intrastate pipelines without prior NGA authorization made it possible for interstate pipelines to avoid constructing duplicative facilities. (footnotes omitted).

<sup>34</sup> See *Valero Transmission, L.P.*, 57 FERC ¶ 61,299, at 61,955 (1991) (granting request by Texas intrastate pipeline for NGA section 311 authorization and a Presidential Permit for a border-crossing facility to export gas to Mexico and explaining that only the border-crossing facility would be subject to the Commission's jurisdiction "[s]ince Valero and Vigas [the exporter holding the DOE license] only operate in intrastate commerce within the State of Texas, they are not regulated by the Commission under sections 4, 5, or 7 of the NGA. Therefore, the Commission has no occasion to exercise any jurisdiction over the pipeline itself, other than at the site of exportation.").

company with no existing intrastate facilities may provide NGPA section 311 transportation after it first goes into service as an intrastate pipeline.<sup>35</sup> Further, as noted above, even if Valley Crossing later provides qualifying interstate transportation service under section 311 of the NGPA, such service would not subject its facilities to the Commission's NGA jurisdiction.

23. To support its argument that construction of Valley Crossing's upstream pipeline should be subject to the certificate requirements of NGA section 7, Sierra Club cites *Egan Hub Partners, L.P.*, where the Commission held that an existing intrastate pipeline's contemplated use of storage facilities for NGPA section 311 service was subject to NGA jurisdiction.<sup>36</sup> This case is distinguishable, however, because the storage facilities in question were not contiguous with Egan Hub's existing intrastate system and were physically connected only to interstate pipelines. The Commission stated the storage facilities appeared to have no intrastate or other non-jurisdictional purpose, and found that Egan Hub's "sole purpose in constructing the storage facilities was to provide interstate storage and hub services."<sup>37</sup> Here, Valley Crossing's intrastate pipeline will interconnect with other intrastate pipelines and there is abundant Texas-sourced natural gas to supply the pipeline without relying on interstate volumes. Most importantly, however, Valley Crossing has demonstrated that its pipeline, upon being placed in service, will exclusively carry Texas-sourced gas.<sup>38</sup>

24. Sierra Club also cites *Louisiana Gas System Inc. v. Panhandle Eastern Corp. (Louisiana Gas)*<sup>39</sup> and *KansOk Partnership*.<sup>40</sup> In *Louisiana Gas*, three affiliated pipelines – an intrastate pipeline, a Hinshaw pipeline, and an interstate pipeline – sought to avoid the Commission's NGA section 7 jurisdiction over the construction of facilities to transport gas from Texas into Louisiana by constructing three separate but interconnected pipeline segments (service over the facilities would be provided under NGPA section 311). Similarly, *KansOk* involved an intrastate pipeline in Oklahoma interconnecting

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<sup>35</sup> See e.g., *Trans-Pecos Pipeline, LLC*, 155 FERC ¶ 61,140, *order on reh'g*, 157 FERC ¶ 61,081 (2016) and *Comanche Trail Pipeline, LLC*, 155 FERC ¶ 61,182 (2016).

<sup>36</sup> 73 FERC ¶ 61,334 at 61,927.

<sup>37</sup> *Id.*

<sup>38</sup> Valley Crossing February 17, 2017 Data Request Response at 4-5.

<sup>39</sup> 73 FERC ¶ 61,161 (1995), *reh'g denied*, 75 FERC ¶ 61,027 (1996).

<sup>40</sup> 73 FERC ¶ 61,160 (1995), *order on reh'g*, 81 FERC ¶ 61,005 (1997) (*KansOk*).

with a one-mile segment of interstate pipeline owned by an affiliate, Riverside Pipeline Company (Riverside), which crossed the Oklahoma/Kansas border. Riverside then connected to an affiliated Hinshaw pipeline in Kansas that extended to the Kansas/Missouri border where the Hinshaw pipeline connected to a second segment of interstate pipeline owned by Riverside which crossed the state border into Missouri. The existing KansOk system transported gas under NGPA section 311. The Commission held that both the contemplated facilities in *Louisiana Gas* and the existing facilities in *KansOk* constituted integrated interstate pipelines, subject in their entirety to the Commission's jurisdiction under section 7 of the NGA, as opposed to individual segments of pipeline each with a different jurisdictional status. These cases are not relevant to this proceeding because there is no evidence in the record to show Valley Crossing is combining pipelines to circumvent the Commission's NGA section 7(c) jurisdiction.

25. In a similar vein, John Young, an intervenor, claims that Valley Crossing is part of a coordinated plan by Pomelo Connector Pipeline, LLC (Pomelo Connector) and Texas Eastern Transmission LP (Texas Eastern) to collectively transport interstate gas to Mexico, and that this plan should make Valley Crossing's intrastate pipeline subject to the Commission's section 7(c) jurisdiction.<sup>41</sup>

26. On May 22, 2015, Texas Eastern filed an application for authority to construct, among other things, a new compressor station, known as the Petronila Compressor Station, in Nueces County, Texas (South Texas Expansion Project).<sup>42</sup> On December 22, 2016, Pomelo Connector filed an application proposing to construct a 14-mile-long, 30-inch-diameter pipeline in Nueces County to connect the proposed Petronila Compressor Station to the Valley Crossing Pipeline.<sup>43</sup> Texas Eastern also proposes as part of its South Texas Expansion Project to acquire by lease all the capacity in the new Pomelo pipeline. If those proposals, which are currently pending before the Commission, are approved, shippers on Texas Eastern could use capacity on the Valley Crossing Pipeline<sup>44</sup> to move gas to Mexico. However, the alleged "coordinated plan" does not

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<sup>41</sup> Mr. John Young February 27, 2017 Comment, at 1; *see also* Mr. John Young May 8, 2017 Comment, at 4-7 (also filed in Docket Nos. CP17-26-000 and CP15-499-000).

<sup>42</sup> *See* Texas Eastern's May 22, 2015 Application in Docket No. CP15-499-000.

<sup>43</sup> *See* Pomelo Connector's December 22, 2016 Application, in Docket No. CP17-26-000

<sup>44</sup> Texas Eastern and Valley Crossing are affiliates, both owned by Enbridge, Inc.

make the Valley Crossing Pipeline jurisdictional. To the extent Valley Crossing in the future transports gas received from Texas Eastern and/or other upstream interstate pipelines, that transportation service will be provided as allowed by section 311(a) of the NGPA.

### **C. Environmental Analysis**

27. On January 27, 2017, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment* (NOI). The NOI was published in the Federal Register and mailed to federal, state, and local government representatives and agencies; elected officials; and other interested individuals and groups.

28. The Commission received over 100 stakeholder comments filed prior to and in response to the NOI. The majority of the scoping comments requested that the Commission assume jurisdiction over Valley Crossing's planned intrastate pipeline. Stakeholders commented that the Commission should prepare an environmental impact statement that includes the Border Crossing Project, Valley Crossing's planned intrastate pipeline, and other projects, including the Pomelo Connector and Texas Eastern's proposed South Texas Expansion Project, as well as nearby liquefied natural gas export facilities. We also received specific scoping comments regarding potential impacts of both the intrastate pipeline and the border-crossing facilities on water quality and resources; methane pollution; aquatic and marine life; federal and state-protected species; pipeline safety; commercial and recreational activities; historic sites; climate change; and cumulative impacts.

29. To satisfy the requirements of the National Environmental Policy Act of 1969, our staff prepared an EA for the Border Crossing Project. The EA addresses seafloor resources, water resources, aquatic wildlife and fisheries, protected species, use of marine waters, cultural resources, air quality, noise, reliability and safety, cumulative impacts, related facilities, and alternatives. All substantive comments received in response to the NOI were addressed in the EA.

30. The EA was placed into the public record on June 30, 2017, and issued for a 30-day comment period. Following issuance of the EA, the Commission received several comment letters from concerned citizens, the Texas Historical Commission, the U.S. Environmental Protection Agency (EPA), and Valley Crossing. In addition to addressing Valley Crossing's intrastate pipeline, the comments raised concerns about the Border Crossing Project's impacts on aquatic life, air quality, project need, and safety. EPA also requested an extension of the 30-day comment period.

#### **1. Concerned Citizens**

31. Ms. Diane Teter and Mr. John Young provided comments that were similar to stakeholder comments received during the scoping process that were addressed in the

EA. For example, Ms. Teter poses several questions about the project's impacts on seagrasses and fishing grounds, air quality, and cumulative impacts, and requests that the Commission consider the impacts of all pipelines under consideration in the environmental analysis. As stated in the EA, vegetation, including sea grasses, would not be affected by the project.<sup>45</sup> The EA also analyzes impacts on fisheries and concludes that the project's limited scope and temporary impacts on water quality would not result in significant impacts on fisheries.<sup>46</sup>

32. Both Ms. Teter and Mr. Young express concerns about the non-jurisdictional Valley Crossing intrastate pipeline. As discussed in the EA, Valley Crossing's intrastate pipeline is wholly located within Texas and regulated by the Railroad Commission of Texas. On September 15, 2016, the Railroad Commission of Texas issued Valley Crossing a permit to operate its proposed intrastate pipeline. As explained above, the Commission has no jurisdiction over Valley Crossing's 165-mile-long intrastate pipeline and cannot require the mitigation or avoidance of related impacts. However, the EA contains the available resource impact information on Valley Crossing's planned intrastate pipeline in its Related Facilities section.<sup>47</sup>

## **2. Texas Historical Commission**

33. The Texas Historical Commission states that it has completed its review of the project in compliance with section 106 of the National Historic Preservation Act. The Texas Historical Commission explains that Valley Crossing produced a report for a Texas Antiquities Permit addressing the marine impacts of constructing the border-crossing facilities and that the Texas Historical Commission provided comments concurring in the recommendations in the report. Based on the Texas Historical Commission's statements, we are modifying staff's recommendation in the EA pertaining to compliance with section 106 of the National Historic Preservation Act. Environmental Condition 13 in Appendix B of this Order no longer includes this aspect of the recommendation as it is no longer necessary.<sup>48</sup>

## **3. Environmental Protection Agency**

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<sup>45</sup> See EA at 11.

<sup>46</sup> *Id.* at 13.

<sup>47</sup> *Id.* at 21.

<sup>48</sup> *Id.* at 15.

34. EPA expresses concern with tribal consultations and recommends that any impacts be addressed and the outcome of government-to-government consultations be disclosed. The EA notes that Valley Crossing did not file documentation of outreach with federally recognized tribes and recommends that Valley Crossing submit copies of all correspondence and resulting documentation prior to construction of the project.<sup>49</sup> We concur, and are including this recommendation as Environmental Condition 13 in Appendix B to this order.

35. EPA also expresses concern about impacts on minority and low-income populations adjacent to the project area. During the review process, staff determined that due to the location of the project, which is located entirely in the Gulf of Mexico, no environmental justice communities were present or located within a distance that would be affected by the project. Given these facts, we agree that an analysis of environmental justice is not warranted.

#### **4. Valley Crossing**

36. Valley Crossing expresses concern about the recommendation in the EA that construction activities should not begin until staff receives comments from the National Marine Fisheries Service, pursuant to section 7 of the Endangered Species Act. Valley Crossing states that the EA's finding that the project "may affect, but is not likely to adversely affect sea turtles"<sup>50</sup> contrasts with the U.S. Army Corps of Engineers' (Corps) determination of "no effect" for sea turtles. Valley Crossing suggests that staff should also make a determination of "no effect" based on the Corps' findings, which would make the recommendation regarding receipt of comments from the National Marine Fisheries Service prior to construction unnecessary. We have reviewed Valley Crossing's submission and staff's analysis, summarized in the Protected Species Section of the EA,<sup>51</sup> and find that staff's determination is justified and appropriate. As recommended in the EA, Environmental Condition 12 in Appendix B to this order requires that Valley Crossing complete consultation with the National Marine Fisheries Service prior to commencement of construction of the project.

37. Based on the analysis in the EA, as supplemented herein, we conclude that if constructed and operated in accordance with Valley Crossing's application and supplements, and in compliance with the environmental conditions in Appendix B to this order, our approval of this proposal would not constitute a major federal action

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<sup>49</sup> *Id.* at 15.

<sup>50</sup> *Id.* at 14.

<sup>51</sup> *Id.* at 13.

significantly affecting the quality of the human environment. Thus, for the reasons discussed above, the Commission finds that the Border Crossing Project is not inconsistent with the public interest.

38. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this authorization. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.<sup>52</sup>

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

The Commission orders:

(A) A Presidential Permit and NGA section 3 authorization are issued authorizing Valley Crossing to site, construct, and operate natural gas import and export border-crossing facilities, as described and conditioned in this order, subject to the conditions of the Presidential Permit and compliance with the environmental conditions in Appendix B to this order.

(B) Valley Crossing shall sign and return the testimony of acceptance of all provisions, conditions, and requirements of the Presidential Permit to the Secretary of the Commission within 30 days of the issuance of this order.

(C) The authorized import/export facility shall be completed and placed in service within one year of the date of issuance of this order.

(D) Valley Crossing shall notify the Commission's environmental staff by telephone, email, and/or facsimile of any environmental noncompliance identified by

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<sup>52</sup> See 15 U.S.C. § 717r(d) (2012) (state or federal agency's failure to act on a permit considered to be inconsistent with Federal law); see also *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293, 310 (1988) (state regulation that interferes with FERC's regulatory authority over the transportation of natural gas is preempted) and *Dominion Transmission, Inc. v. Summers*, 723 F.3d 238, 245 (D.C. Cir. 2013) (noting that state and local regulation is preempted by the NGA to the extent it conflicts with federal regulation, or would delay the construction and operation of facilities approved by the Commission).



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other federal, state, or local agencies on the same day that such agency notifies Valley

Crossing. Valley Crossing shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(E) NextEra Energy Resources's untimely motion to intervene is granted.

(F) Valley Crossing's January 9, 2017 motion for leave to answer and answer is granted.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

**APPENDIX A**

**Timely Motions to Intervene**

Patrick Anderson  
City of Port Isabel, Texas  
Fontera Audubon Society of Weslaco, Texas  
Maria Galasso  
Terrence M. Garrett  
Madeleine Sandefur  
Victoria A. Scharen  
Larry G. Schroeder  
Maryann R. Schroeder  
Sierra Club  
John Young

## APPENDIX B

### Environmental Conditions

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

1. Valley Crossing shall follow the construction procedures and mitigation measures described in its application and supplements, including responses to staff data requests, as identified in the EA, unless modified by the order. Valley Crossing 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, or the Director's designee, has delegated authority to address any requests for approvals or authorizations necessary to carry out the conditions of the order, and 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;
  - b. stop-work authority; and
  - c. the imposition of any additional measures deemed necessary to ensure continued compliance with the intent of the conditions of the order as well as the avoidance or mitigation of unforeseen adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, Valley Crossing shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors (EIs), 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. 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**, Valley Crossing shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by the order. All requests for modifications of environmental conditions of the order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.
5. Valley Crossing 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, documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction in or near that area**.

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

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

- a. implementation of cultural resources mitigation measures;
  - b. implementation of endangered, threatened, or special concern species mitigation measures;
  - c. recommendations by state regulatory authorities; and
  - d. agreements with individual landowners that affect other landowners or could adversely affect sensitive environmental areas.
6. **At least 60 days before construction begins**, Valley Crossing shall file an Implementation Plan with the Secretary for review and written approval by the Director of OEP. Valley Crossing must file revisions to the plan as schedules change. The plan shall identify:
    - a. how Valley Crossing will implement the construction procedures and mitigation measures described in its application and supplements (including

- responses to staff environmental information requests), identified in the EA, and required by the order;
- b. how Valley Crossing will 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. company personnel, including EIs and contractors, who will receive copies of the appropriate material;
  - d. the location and dates of the environmental compliance training and instructions Valley Crossing will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change),
  - e. the company personnel (if known) and specific portion of Valley Crossing's organization having responsibility for compliance;
  - f. the procedures (including use of contract penalties) Valley Crossing will follow if noncompliance occurs; and
  - g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
    - (1) the completion of all required surveys and reports;
    - (2) the environmental compliance training of onsite personnel;
    - (3) the start of construction; and
    - (4) the start and completion of restoration.
7. Valley Crossing shall employ at least one EI for the project. The EI shall be:
- a. responsible for monitoring and ensuring compliance with all mitigation measures required by the order and other grants, permits, certificates, or other authorizing documents;
  - b. responsible for evaluating the construction contractor's implementation of the environmental mitigation measures required in the contract (see condition 6 above) and any other authorizing document;
  - c. empowered to order correction of acts that violate the environmental conditions of the order, and any other authorizing document;

- d. responsible for documenting compliance with the environmental conditions of the order, as well as any environmental conditions/permit requirements imposed by other federal, state, or local agencies; and
  - e. responsible for maintaining status reports.
8. Beginning with the filing of its Implementation Plan, Valley Crossing 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 will also be provided to other federal and state agencies with permitting responsibilities. Status reports shall include:
- a. an update on Valley Crossing'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 that 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 Valley Crossing from other federal, state, or local permitting agencies concerning instances of noncompliance, and Valley Crossing's response.
9. Valley Crossing must receive written authorization from the Director of OEP **before commencing construction of any project facilities.** To obtain such authorization, Valley Crossing must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).
10. Valley Crossing must receive written authorization from the Director of OEP **before placing the project into service.** Such authorization will only be granted

following a determination that rehabilitation and restoration of all areas affected by the project are proceeding satisfactorily.

11. **Within 30 days of placing the authorized facilities in service**, Valley Crossing shall file an affirmative statement with the Secretary, certified by a senior company official:
  - a. that the facilities have been constructed and installed in compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
  - b. identifying which of the conditions in the order Valley Crossing has complied with or will 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.
12. Valley Crossing shall **not begin construction** activities **until**:
  - a. the staff receives comments from the National Marine Fisheries Service regarding the proposed action and its effects on federally listed species; and
  - b. Valley Crossing has received written notification from the Director of OEP that construction or use of mitigation may begin.
13. Valley Crossing shall **not begin construction** of facilities **until**:
  - a. Valley Crossing files with the Secretary:
    - (1) documentation that project information has been provided to the appropriate federally recognized tribes with an interest in the project area, for comments;
    - (2) and all resulting correspondence.

All materials filed with the Commission containing **location, character, and ownership** information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: **“CUI//PRIV - DO NOT RELEASE.”**



**PERMIT AUTHORIZING VALLEY CROSSING PIPELINE, LLC TO SITE,  
CONSTRUCT, AND OPERATE NATURAL GAS FACILITIES AT THE  
INTERNATIONAL BOUNDARY BETWEEN THE UNITED STATES AND  
MEXICO**

Valley Crossing Pipeline, LLC (Valley Crossing), a limited liability company organized and existing under the laws of the State of Delaware, filed on November 21, 2016, in Docket No. CP17-19-000, 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 (NGA) and a Presidential Permit authorizing Valley Crossing to site, construct, and operate certain natural gas facilities to import and export natural gas at a point on the international boundary between the United States and Mexico.

By letter dated April 11, 2017, the Secretary of State, and by letter dated February 13, 2017, the Secretary of Defense, favorably recommend that this Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of this Permit is appropriate and consistent with the public interest.

Pursuant to the provisions of Executive Order Nos. 10485 and 12038, dated September 3, 1953, and February 3, 1978, respectively, the Secretary of Energy's Delegation Order No. 00-004.00A, effective May 16, 2006, and the Commission's regulations, permission is granted to Valley Crossing (Permittee) to operate 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 and may be amended by the Federal Energy Regulatory Commission, upon proper application therefore.

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

Approximately 1,000 feet of 42-inch-diameter natural gas pipeline in Texas state waters in the Gulf of Mexico near Cameron County, Texas, terminating at the international boundary with Mexico.

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 Defense, to remove or alter the same so as to render navigation through such water 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, imported, or the facilities described herein, as the Commission may, from time to time, request. Such information may be made available to any federal, state, or local agency requesting such information.

Article 8. Neither this Permit nor the facilities, 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 replacement.

Article 9. Upon the termination, revocation, or surrender of this Permit, the Commission shall determine which of the authorized facilities shall be removed and which shall remain in place. The facilities authorized shall be removed within such time as the Commission may specify, and at the Permittee's expense. Upon failure of the Permittee to comply with the Commission's direction to remove any authorized facilities, or any portion thereof, the Commission may direct that possession of the same be taken and the facilities be removed at the Permittee's expense, and the Permittee shall have no claim for damages by reason of such possession or removal.

Article 10. The Permittee agrees that when, in the opinion of the President of the United States, evidenced by a written order addressed to its 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.

Document Content(s)

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