

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeem G. Kelly.

Sierra Production Company

Docket No. CP01-416-002

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

(Issued March 30, 2004)

1. On September 29, 2003, Sierra Production Company (Sierra) filed an application in Docket No. CP01-416-002 to amend its authorization under Section 3 of the Natural Gas Act (NGA) and its Presidential Permit for its natural gas import facilities at the United States/Canada border. Sierra requests the amendments in order to permit the use of its facilities to transport increased volumes of natural gas.

2. This order grants Sierra's requests based on the Commission's finding that the proposal is in the public interest because it will permit the delivery of natural gas supplies needed in Montana and further Canadian resource development.

**Notice and Interventions**

3. Notice of Sierra's application was published in the Federal Register on October 15, 2003, 68 Fed. Reg. 59,385. Comments were due by October 28, 2003. No interventions were filed. The proceeding is unopposed.

**Consultation with Secretaries of State and Defense**

4. On November 18, 2003, the Commission sent copies of Sierra's application and a draft amended Presidential Permit to the Secretary of State and the Secretary of Defense for their recommendations in accordance with Executive Order 10485. Replies on behalf of the Secretary of State dated February 10, 2004, and Secretary of Defense dated January 2, 2004, indicate no objection to issuance of the amended Presidential Permit.

**Discussion**

5. On December 28, 2001, the Commission granted Sierra a Presidential Permit and authorization under Section 3 of the NGA authorizing the construction of international border crossing facilities to import up to 5,000 Mcf/d of its own natural gas production from Canada into Toole County, Montana, for consumption in Montana.<sup>1</sup> On May 7, 2003, the Commission amended Sierra's authorizations to increase its facilities' approved throughput to 12,000 Mcf/d so that Sierra could accommodate requests by producers in the vicinity of Sierra's gas well in Alberta, Canada, for transportation of their gas for consumption in Montana.<sup>2</sup>

6. In the instant application, Sierra states that it has received additional service requests from adjacent Canadian producers for the transportation of their gas for use in Montana. Therefore, Sierra seeks to amend its Presidential Permit and its authorization under Section 3 of the NGA to increase its facilities' authorized throughput to 24,000 Mcf/d.

7. Sierra's facilities include a meter station and approximately 1,786 feet of 6-inch diameter pipeline in the Sweetgrass Hills area of Toole County, Montana. Sierra's pipeline extends from MCW Transmission's gathering system and processing facility to the Canadian border. While Sierra's current authorizations limit its transportation volumes to 12,000 Mcf/d, Sierra states that its facilities are capable of transporting up to 24,000 Mcf/d. Thus, Sierra asserts it will not need to make any modifications to its facilities. Since no physical changes to Sierra's facilities are necessary to accommodate the proposed increase in gas flow, there will be no environmental impact as a result of granting Sierra's requested amendments.

8. Sierra's proposal will permit the delivery of gas supplies needed in Montana, benefiting the public and businesses in the area. The proposal also will further Canadian resource development. By providing for the transportation of increased volumes of imported Canadian gas, Sierra's proposal will facilitate the international energy trade between the United States and Canada, furthering the policy goals and objectives of the Energy Policy Act of 1992<sup>3</sup> and the North American Free Trade Agreement.<sup>4</sup> Finally, as

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<sup>1</sup>Sierra Production Company, 97 FERC ¶ 61,383 (2001).

<sup>2</sup>Sierra Production Company, 103 FERC ¶ 61,145 (2003).

<sup>3</sup>Energy Policy Act of 1992, Pub. L. 102-486 (October 24, 1992), 106 Stat. 2776.

<sup>4</sup>North American Free Trade Agreement Implementation Act, Pub. L. 103-182

noted above, the Secretaries of State and Defense have stated no objection to the Commission's approval of Sierra's requested amended to its Presidential Permit.

9. In view of the above considerations, we find that Sierra's proposal is not inconsistent with the public interest, provided that Sierra continues to adhere to the operation procedures described in its original application as amended. Accordingly, we will exercise our jurisdiction pursuant to Section 3 of the NGA and authority delegated by the Secretary of Energy<sup>5</sup> to issue amended authorizations for Sierra to increase its facilities' maximum throughput from 12,000 Mcf/d to 24,000 Mcf/d.

10. At a hearing held on March 24, 2004, 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 submitted in support of the authorization sought herein, and upon consideration of the record,

The Commission orders:

(A) Sierra is issued an amended Presidential Permit and amended authorization under Section 3 of the NGA, as described herein and subject to the conditions set forth in the Presidential Permit.

(B) Sierra shall sign and return the Testimony of Acceptance of all the provisions, conditions, and requirements of the amended Presidential Permit to the Secretary of the Commission within 30 days of the issuance of this order.

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

<sup>5</sup> The Commission's current authority to perform certain functions with respect to the regulation of facilities used to import or export natural gas was delegated pursuant to the Secretary of Energy's Delegation Order No. 00-004.00, 67 Fed. Reg. 8946 (Feb. 27, 2002), which became effective December 6, 2001. See also Yukon Pacific Corporation, 39 FERC ¶61,216 (1987).

(C) Except as authorization herein to increase transportation volumes, Sierra's continued operation of its facilities shall be in accordance with the operation procedures described in its application filed on July 27, 2001 in Docket No. CP01-416-000.

By the Commission.

( S E A L )

Linda Mitry,  
Acting Secretary.

## Appendix

**PERMIT AUTHORIZING SIERRA PRODUCTION COMPANY  
TO SITE, CONSTRUCT, OPERATE, AND MAINTAIN  
FACILITIES FOR THE IMPORTATION OF NATURAL GAS  
AT THE INTERNATIONAL BOUNDARY  
BETWEEN THE UNITED STATES AND CANADA**

**FEDERAL ENERGY REGULATORY COMMISSION  
DOCKET NO. CP01-416-002**

(Issued March 30, 2004)

Sierra Production Company (Permittee), a corporation organized and existing under the laws of the State of Nevada and licensed in the State of Montana, with its principal office located at Shelby, Montana, filed in Docket No. CP01-416-002 on September 29, 2003, an application pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 00-004.00, seeking to amend a Presidential Permit authorizing Permittee to site, construct, operate, and maintain facilities for the importation of natural gas at the international border between the United States and Canada in Toole County, Montana.

By letter dated February 10, 2004, the Secretary of State, and by letter January 2, 2004, the Secretary of Defense, favorably recommended that the Amended Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of an Amended Permit is appropriate and consistent with the public interest.

Pursuant to the provisions of Executive Order Nos. 10485 and 12038, dated September 3, 1953, and February 3, 1978, respectively, the Secretary of Energy's Delegation Order No. 00-004.00, effective December 6, 2001, and the Commission's Regulations, permission is granted to Permittee to cite, construct, operate, and maintain facilities for the importation of natural gas described in Article 2 below, upon the terms and conditions of the Amended 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:

A meter station and small, 6-inch gathering pipeline extending from a gathering system and processing facilities located in the Sweet Grass Hills area of North Central Toole County, Montana, for a distance of approximately 1,786 feet north to the United States/Canada Border. All the border-crossing facilities will be located in the Sweet Grass Hills area of North Central Toole County. The facilities will be utilized to import up to 24,000 Mcf per day of natural gas.

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

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

Article 5. If in the future it should appear to the Secretary of the Army that any facilities or operations permitted hereunder cause unreasonable obstruction to the free navigation of any of the navigable waters of the United States, the Permittee may be required, upon notice from the Secretary of the Army, to remove or alter the same so as to render navigation through such waters free and unobstructed.

Article 6. The Permittee shall be liable for all damages occasioned to the property of others by the operation or maintenance of the facilities, and in no event shall the United States be liable therefor. The Permittee shall do everything reasonable within its power to prevent or suppress fires on or near land occupied under this Permit.

Article 7. The Permittee agrees to file with the Commission, under oath and in such detail as the Commission may require, such statements or reports with respect to the natural gas exported or the facilities described herein, as the Commission may, from time to time, request. Such information may be made available to any federal, state, or local agency requesting such information.

Article 8. Neither this Permit nor the facilities, nor any part thereof, covered by this Permit shall be voluntarily transferred in any manner, but the Permit shall continue in effect temporarily for a reasonable time in the event of the involuntary transfer of the facilities by operation of law (including transfer to receivers, trustees, or purchasers under

foreclosure or judicial sale) pending the making of an application for a permanent Permit and decision thereon, provided notice is promptly given in writing to the Commission accompanied by a statement that the facilities authorized by this Permit remain substantially the same as before the involuntary transfer. The Permittee shall maintain the facilities in a condition of repair for the efficient transportation of natural gas and shall make all necessary renewals and replacements.

Article 9. At such time that this Permit is surrendered, revoked, or otherwise terminated, the Commission shall determine which of the authorized facilities shall be removed and which shall remain in place. The Commission will specify the time within which any authorized facilities shall be removed, and the Permittee shall remove those facilities within such time and at the Permittee's expense. Upon failure of the Permittee to comply with the Commission's direction to remove any authorized facilities, the Commission may direct that possession of the same be taken and the facilities be removed at the Permittee's expense, and the Permittee shall have no claim for damages by reason of such possession or removal.

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

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

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

Article 13. The Permittee will provide plans for the operation and maintenance of the facilities in Canada to the Commissioner for Canada, International Boundary

Commission, and to the United States Commissioner of the International Boundary Commission, for review and approval in order to assure that the construction, operation, and maintenance of the boundary crossing facilities are consistent with boundary and water treaties and other agreements in force between the United States and Canada.

By direction of the Commission.

( S E A L )

Linda Mitry,  
Acting Secretary.

IN TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this day of \_\_\_\_\_, 2004 has caused its named to be signed by \_\_\_\_\_, pursuant to a resolution of its Board of Directors duly adopted on the \_\_ day of \_\_\_\_\_, 2004, a certified copy of the record of which is attached hereto.

Sierra Production Company

By \_\_\_\_\_

(Attest)

\_\_\_\_\_  
Executed in triplicate