

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Alliance Pipeline L.P.

Docket No. CP97-169-004

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

(Issued June 17, 2005)

1. Alliance Pipeline L.P. (Alliance) previously received authorization to site, construct, operate, maintain, and connect certain facilities at the United States/Canada international boundary near Sherwood, in Renville County, North Dakota, to import natural gas.¹ On November 23, 2004, Alliance filed an application to increase the authorized capacity of its border-crossing facilities by 75 million cubic feet of gas per day (MMcf/d). Alliance does not propose to alter its existing border-crossing facilities; instead, Alliance states that its experience and recent engineering analyses demonstrate that its existing facilities' actual maximum throughput is 1,875 MMcf/d, rather than its currently authorized maximum of 1,800 MMcf/d.
2. We will authorize Alliance's request to increase its facilities' maximum authorized throughput from 1,800 to 1,875 MMcf/d. We conclude that Alliance's existing border-crossing facilities could, under certain conditions, experience flows on a temporary and unsustainable basis of up to 1,875 MMcf/d, and believe that permitting the requested increase will allow Alliance to operate its existing facilities more efficiently. Accordingly, we find Alliance's request to amend its authorizations to be consistent with the public interest.

¹ The Commission issued Alliance a Presidential Permit, pursuant to Executive Order Nos. 10485 and 12038 and the Secretary of Energy's Delegation Order No. 00-004.00, and authorization pursuant to section 3 of the Natural Gas Act (NGA), on September 17, 1998. 84 FERC ¶ 61,239 (1998), as amended on June 13, 2002, 99 FERC ¶ 61,313 (2002).

Background and Proposal

3. Alliance is a limited partnership organized and existing under the laws of the State of Delaware, with its principal office located at Calgary, Alberta, Canada. Alliance owns and operates an 886.8-mile long, 36-inch diameter pipeline and related facilities that carry Canadian gas from the North Dakota border to the Chicago market.

4. Alliance's border-crossing facilities consist of approximately 2000 feet of 36-inch diameter pipe. Initially, Alliance received authorization pursuant to NGA section 3 and a Presidential Permit pursuant to Executive Order Nos. 10485 and 12038, and the Secretary of Energy's Delegation Order No. 0204-112, to transport a maximum of 1,632 MMcf/d.² Alliance's border-crossing facilities' authorized capacity was subsequently increased to 1,800 MMcf/d, following Alliance's submission of an updated hydraulic assessment demonstrating that under certain conditions, gas flows across the international border might temporarily exceed the previously authorized maximum of 1,632 MMcf/d.³ Now, based on additional operating experience and an updated engineering analysis, Alliance believes that under certain conditions, its border-crossing facilities could experience temporary, unsustainable gas flows of up to 1,875 MMcf/d, and seeks to once more amend its existing authorization to reflect this higher throughput. Alliance asserts that the firm certificated transportation capacity of its pipeline system, 1,513 MMcf per day (1,552 MMcf per day with fuel), remains unchanged.⁴

Notice

5. Notice of Alliance's amended application was published in the *Federal Register* on December 7, 2004.⁵ No pleadings were submitted in response.

² 84 FERC ¶ 61,239 (1998). This volume represented the steady-state winter capacity of Alliance's pipeline system, inclusive of fuel.

³ 99 FERC ¶ 61,313 (2002).

⁴ This is the summer design capacity which Alliance can guarantee year round.

⁵ 69 FR 70,663 (Dec. 7, 2004).

Consultation with Secretaries of State and Defense

6. A draft Presidential Permit, amended to reflect the above-noted proposed increase in maximum authorized throughput, was sent to the Secretary of State and to the Secretary of Defense for their recommendations. In addition, to conform with current Commission policy, the draft Presidential Permit was modified in Article 3 to state that the border-crossing facilities may be used to both import and export gas, consistent with current and future authorizations by the Department of Energy, and in Article 9 to state that in the event that the border-crossing facilities are no longer needed, Alliance will follow our requirements regarding their abandonment.

7. Replies on behalf of the Secretary of State, dated March 11, 2005, and on behalf of the Secretary of Defense, dated April 20, 2005, indicate no objection to amending the Presidential Permit.⁶

Discussion

Presidential Permit and NGA Sections 3 Authorization

8. Because Alliance's pipeline is used to import natural gas, the transportation and border-crossing facilities are subject to the Commission's jurisdiction and to the requirements of NGA section 3.

9. No construction of new, or modification of existing, physical facilities is contemplated by the subject application. Therefore, there will be no environmental impact as a result of our action. In addition, the proposed increase in authorized throughput will have no impact on Alliance's currently effective rates, thus there are no rate or accounting issues to review.

10. We have considered Alliance's facilities and concur with Alliance that its updated hydraulic assessment and operating history demonstrate that its border-crossing facilities, under certain conditions, may experience temporary, unsustainable flows up to 1,875 MMcf/d. However, we note that there is no change to the certificated transportation capacity of Alliance's downstream pipeline system. Based on our

⁶Executive Order No. 10,485 requires that the Commission obtain the favorable recommendation of the Secretaries of State and Defense prior to issuing a Presidential Permit.

engineering analysis and review of the record, and the absence of any objection from the Secretaries of State and Defense or any other person, we conclude that Alliance's request to increase the maximum authorized throughput of its border-crossing facilities to 1,875 MMcf/d promotes the objectives of the Energy Policy Act of 1992⁷ and is not inconsistent with the public interest. Accordingly, we will grant Alliance's request and amend its existing Presidential Permit⁸ and NGA section 3 authorizations.

11. At a hearing held on June 15, 2005, the Commission, on its own motion, received and made a part of the record, all evidence, including the application and exhibits thereto, submitted in this proceeding, and upon consideration of the record,

The Commission orders:

(A) In Docket No. CP97-169-004, Alliance's existing Presidential Permit, issued on June 13, 2002, is amended as discussed herein.

(B) Alliance must sign and return the Testimony of Acceptance of all provisions, conditions, and requirements of the Presidential Permit to the Secretary of the Commission within fifteen days of the issuance of this order.

(C) Alliance's existing NGA section 3 authority is revised to reflect an increase in its border-crossing facilities' maximum authorized throughput to 1,875 MMcf/d, as discussed herein.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

⁷See 15 USC § 717b (2001).

⁸The Amended Presidential Permit is attached as an appendix to this order.

Appendix

Amended Presidential Permit

**AMENDED PRESIDENTIAL PERMIT
AUTHORIZING ALLIANCE PIPELINE L.P.
TO OPERATE, MAINTAIN, AND CONNECT NATURAL GAS FACILITIES
AT THE INTERNATIONAL BOUNDARY BETWEEN
THE UNITED STATES AND CANADA**

**FEDERAL ENERGY REGULATORY COMMISSION
DOCKET NO. CP97-169-004**

(Issued June 17, 2005)

Alliance Pipeline L.P. (Permittee), a limited partnership organized and existing under the laws of the State of Delaware, filed an application in Docket No. CP97-169-004 on November 23, 2004, seeking to modify the operation of facilities authorized under the Presidential Permit issued on September 17, 1998, 84 FERC ¶ 61,239 (1998), and amended on June 13, 2002, 99 FERC ¶ 61,313 (2002). Permittee avers that operating experience and recent engineering analyses verify that the actual peak day capacity of its border-crossing facilities is greater than the 1,800 million cubic feet per day (MMcf/d) reflected in the existing Permit. Therefore, Permittee requests authorization to amend its Permit to increase its maximum authorized throughput to 1,875 MMcf/d.

By letter dated March 11, 2005, the Secretary of State, and by letter dated April 20, 2005, 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 construct, operate, maintain and connect the natural gas transmission facilities described in Article 2 below, upon the terms and conditions of the Permit.

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

Regulatory Commission and may be amended by the Federal Energy Regulatory Commission upon proper application therefore.

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

A natural gas transportation pipeline consisting of approximately 2000 feet of 36-inch diameter pipe, with a maximum capacity of 1,875 MMcf of natural gas per day, extending from near Sherwood, in Renville County, North Dakota, to an interconnection at the international boundary of the United States and Canada with the facilities of Alliance Pipeline L.P.

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 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 therefore. The Permittee shall do everything reasonable within its power to prevent or suppress fires on or near land occupied under this Permit.

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

Article 8. Neither this Permit nor the facilities, nor any part thereof, covered by this Permit shall be voluntarily transferred in any manner, but the Permit shall continue in effect temporarily for a reasonable time in the event of the involuntary transfer of the facilities by operation of law (including transfer to receivers, trustees, or purchasers under foreclosure or judicial sale) pending the making of an application for a permanent Permit and decision thereon, provided notice is promptly given in writing to the Commission accompanied by a statement that the facilities authorized by this Permit remain substantially the same as before the involuntary transfer. The Permittee shall maintain the facilities in a condition of repair for the efficient transportation of natural gas and shall make all necessary renewals and replacements.

Article 9. At such time that this Permit is surrendered, revoked, or otherwise terminated, the Commission shall determine which of the authorized facilities shall be removed and which shall remain in place. The Commission will specify the time within which any authorized facilities shall be removed, and the Permittee shall remove those facilities within such time and at the Permittee's expense. Upon failure of the Permittee to comply with the Commission's direction to remove any authorized facilities, the Commission may direct that possession of the same be taken and the facilities 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.

TESTIMONY OF ACCEPTANCE of all the provisions, conditions and requirements of this Permit, the Permittee this ____ day of _____, 2005, has caused its name to be signed by _____, pursuant to a resolution of its Board of Directors duly adopted on the ____ day of _____, 2005, a certified copy of the record of which is attached hereto.

Alliance Pipeline L.P.

By _____

(Attest)

Executed in triplicate.