

112 FERC ¶ 61,315
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

El Paso Natural Gas Company

Docket No. CP05-353-001

ORDER DENYING REHEARING

(Issued September 20, 2005)

1. On June 17, 2005, the Director of the Division of Pipeline Certificates of the Commission's Office of Energy Projects (Director) issued an order granting El Paso Natural Gas Company (El Paso) authorization under section 7(b) of the Natural Gas Act (NGA) to abandon in place the Benson Compressor Station on its South System in Cochise County, Arizona.¹ On June 29, 2005, the East of California Shippers (EOC Shippers) filed a request for rehearing of the Director's June 17 Order, asserting that the order failed to address their argument that the Commission should require El Paso to provide supplemental information concerning the potential effects of the proposed abandonment on El Paso's ability to continue meeting its service obligations.² For the reasons discussed herein, this order denies rehearing.

¹ *El Paso Natural Gas Co.*, 111 FERC ¶ 62,312 (2005). Section 375.308 of the Commission's regulations, 18 C.F.R. § 375.308 (2005), delegates authority to the Director of the Office of Energy Projects or the Director's designee to take actions as described in section 375.308. Section 375.301(a) of the regulations, 18 C.F.R. § 375.301(a) (2005), provides that any action by a staff official under delegated authority may be appealed to the Commission in accordance with section 385.1902 of the regulations, 18 C.F.R. § 385.1902 (2005). Section 385.1902(a) provides that a staff action under delegated authority is a final agency action that is subject to a request for rehearing under Rule 713 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713 (2005).

² The members of the EOC Shippers are the El Paso Municipal Customer Group, Phelps Dodge Corporation, Texas Gas Services Corporation (a division of ONEOK, Inc.), and UNS Gas, Inc. Each of these EOC members filed a timely, unopposed motion to intervene in this proceeding pursuant to Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214 (2005). These motions to intervene by the individual members of the EOC Shippers, along with the other timely, unopposed motions to intervene, were automatically granted by operation of Rule 214.

I. Background and the June 17 Order

2. El Paso filed its application for abandonment authority on May 16, 2005. El Paso contends that the Benson Compressor Station (13,340 HP) was constructed in the 1950s³ to provide capacity to transport natural gas from production areas in Texas to growing markets in Arizona and Southern California. However, El Paso states that more recently it has been shipping increased volumes of natural gas from the San Juan Basin. In addition, El Paso maintains that because it has obtained 230 MMcf/d of additional capacity and flexibility through its acquisition in 2001 of Line No. 2000 as a high-pressure loop of its South System,⁴ and another 320 MMcf/d of capacity through its Line 2000 Power-Up (compression) Project,⁵ the Benson Compressor Station is no longer needed.

3. El Paso explains that it has not operated the Benson Compressor Station in recent years; from 1997 through 2004, El Paso reflected the cost of the station in Gas Plant Account No. 105 (Gas Plant Held for Future Use). El Paso states that it would need to undertake noise mitigation to resume operations in Benson City. Finally, El Paso further states that its flow diagrams demonstrated that the abandonment would not affect its ability to provide East of California contractual levels of service, the level of delivery service to California approved in the Western Energy Settlement,⁶ or planned service for a firm right to hourly variability within daily service rights.⁷

4. The Director's June 17 Order found that the Benson Compressor Station was obsolete and no longer needed on a permanent basis, and that the abandonment would not affect system capacity or interrupt, reduce, or terminate any of El Paso's current

³ *El Paso Natural Gas Co.*, 10 FPC 644 (1951), 11 FPC 1071 (1952), 15 FPC 1189 (1956).

⁴ *El Paso Natural Gas Co.*, 95 FERC ¶ 61,176 (2001).

⁵ *El Paso Natural Gas Co.*, 103 FERC ¶ 61,280 (2003).

⁶ *Public Utilities Commission of California v. El Paso Natural Gas Co., et al.*, 105 FERC ¶ 61,201 (2003), *reh'g denied*, 106 FERC ¶ 61,315 (2004).

⁷ An El Paso rate filing under section 4 of the NGA, which the Commission accepted in an order issued on July 29, 2005, and suspended to become effective on January 1, 2006, includes rate schedules providing for a firm right to hourly variability within daily service rights. 112 FERC ¶ 61,150 (2005).

transportation service. Accordingly, the Director's June 17 Order further found that El Paso's request to abandon the Benson Compressor Station was permitted by the public convenience and necessity.

II. Request for Rehearing

5. The EOC Shippers assert that the Commission should reevaluate El Paso's abandonment application on a *de novo* basis giving consideration to the EOC Shippers' comments which the Director's June 17 Order did not address. The EOC Shippers contend that the proposed abandonment of the Benson Compressor Station is an unexplained change in El Paso's position stated in its proceeding in Docket No. CP00-422-000, *et al.*, in which the Commission authorized El Paso to acquire Line 2000, while continuing to operate the Benson Compressor Station.⁸

6. The EOC Shippers further assert that initial capacity allocations on El Paso's system⁹ were based on the availability of 230 MMcf/d of firm capacity from the acquisition of Line 2000 and 210 MMcf/d for transient capacity reserved for system management and that the abandonment of the Benson Compressor Station may jeopardize the availability of that reserve cushion.

7. The EOC Shippers assert that the Commission should not permit El Paso's proposed abandonment of the Benson Compressor Station until El Paso files supplemental information showing that the abandonment will not adversely affect the reliability of firm service.

III. Discussion

8. The EOC Shippers argue that, without reasonable explanation, El Paso has changed the position it has maintained over the last four years regarding the Benson Compressor Station. The EOC Shippers acknowledge that El Paso initially proposed in Docket No. CP00-422-000 to acquire Line 2000 and to abandon the Benson Compressor Station (and five others), leaving total available system capacity unchanged. The EOC

⁸ *El Paso Natural Gas Co.*, 95 FERC ¶ 61,176 (2001).

⁹ *El Paso Natural Gas Co.*, 99 FERC ¶ 61,244 at 62,009-011 (2002); *order clarifying*, 100 FERC ¶ 61,285 at P 3, 23, 32 (2002); *order on rehearing*, 104 FERC ¶ 61,045 at P 78-80, 111 (estimates reserve at 220 MMcf/d), n. 109 (estimates reserve at 210 MMcf/d), 150-55 (2003), *aff'd*, *Arizona Corporation Commission v. FERC*, 397 F.3d 952 (D.C. Cir. 2005).

Shippers emphasize that eight months into the proceeding, however, El Paso filed an amendment that reconfigured its proposal from a project replacing compression with an acquired pipeline capacity to a pipeline expansion project that looped the South System and retained the Benson Compressor Station.¹⁰ El Paso cited the continuing energy crisis in California and constrained pipeline conditions as circumstances prompting El Paso's decision to amend its application in order to retain the Benson and the other compression stations on the South System.

9. However, the fact is that following El Paso's acquisition in 2001 of Line 2000, a high-pressure line effectively looping El Paso's South System with 230 MMcf/d of additional capacity and flexibility, El Paso concluded that it did not need to resume operations at the Benson Compressor Station, which had been terminated on January 1, 1997.¹¹ Since that time, another 320 MMcf/d of capacity has been added to the South System from the Line 2000 Power-Up compression project.¹² El Paso has determined that the Benson Compressor Station is no longer needed to ensure that El Paso will be able to meet its service obligations. We concur. Based on this record, the Director's June 17 Order granting abandonment of the Benson Compressor Station is reasonable.

10. The EOC Shippers contend that continued operation of the Benson Compressor Station was a condition for the Commission's approval of El Paso's acquisition of Line 2000 and relied upon in the Commission's capacity allocation orders. However, while the Commission approved the amended application in that proceeding, which provided for continued operation of the Benson Compressor Station, the station's continued operation was not a condition on El Paso's acquisition and operation of Line 2000.

11. In any event, the Benson Compressor Station has not operated since 1997. During that time, El Paso has been able to meet its firm service obligations to its shippers, including the EOC Shippers. The Commission's capacity allocation orders recognized that the capacity added by the Line 2000 acquisition and Line 2000 Power-Up Project¹³

¹⁰ Amended application in Docket No. CP00-422-001 at 8-9, 13-14 (filed March 15, 2001).

¹¹ Application in Docket No. CP05-353-000 at p. 7, n. 11 (filed May 16, 2005).

¹² *El Paso Natural Gas Co.*, 103 FERC ¶ 61,280 (2003).

¹³ The EOC Shippers' comments do not mention the Line 2000 Power-Up Project that became fully operational on June 11, 2004.

would improve the reliability of El Paso's firm service.¹⁴ Neither these capacity allocation orders nor our orders certificating the Line 2000 projects were conditioned on the operation of Benson Compressor Station.

12. The 2003 capacity allocation order states that "El Paso, like all pipelines, must reserve capacity to manage transients, such as daily and hourly load swings, to provide reliable firm service to its firm shippers."¹⁵ The EOC Shippers assert that the abandonment of the Benson Compressor Station may jeopardize the availability of mainline capacity for hourly service demand variations assumed in that order.

13. As noted, El Paso has been able to meet the firm requirements of its customers on the South System. The EOC Shippers have not alleged the contrary. With the acquisition and expansion of Line 2000, El Paso's abandonment of the Benson Compressor Station will not affect its ability to meet its firm customers' needs for transient capacity and hourly service demand variations. Capacity will continue to be available on a systemwide basis to meet customers' hourly service demand variations.

14. When El Paso filed its original proposal to acquire Line 2000, it proposed to abandon six compressor stations with total horsepower of 119,750.¹⁶ However, El Paso's amended application withdrew the request for authority to abandon any of the compressor stations. Recently, El Paso has received authority to abandon its "B" plant at the El Paso Compressor Station¹⁷ and its Gila compressor station.¹⁸ In this proceeding, El Paso seeks authority to abandon the Benson Compressor Station. The EOC Shippers ask the Commission to require El Paso to disclose whether it intends to abandon the remaining compressor stations and facilities, *i.e.*, Deming, San Simon, and Tucson Compressor Stations and the "A" plant at the El Paso Compressor Station. The EOC Shippers express

¹⁴ *El Paso Natural Gas Co.*, 104 FERC ¶ 61,045 at P 109 (2003).

¹⁵ *Id.* at P 78.

¹⁶ These six were Benson, Deming, San Simon, Tuscon, and Gila on the South System, and the "A" and "B" plants at the El Paso Compressor Station in Texas.

¹⁷ The Commission authorized the abandonment of the "B" plant at the El Paso Compressor Station in *El Paso Natural Gas Co.*, 109 FERC ¶ 62,215 (2004).

¹⁸ The Commission authorized the abandonment of the Gila Compressor Station in *El Paso Natural Gas Co.*, 111 FERC ¶ 62,129 (2005).

concern that El Paso will continue to dismantle its South System on a piecemeal basis without giving the customers or the Commission an opportunity to evaluate the cumulative effects of the pipeline's proposed actions.

15. We will deny the EOC Shippers' request that we require El Paso to disclose in this proceeding whether it intends to seek authority to abandon any of the remaining South System compressor stations. If El Paso does seek such abandonment authority, we will base our decision on the record developed in such proceeding. In reviewing any further proposals, we will fully consider, as we have in this proceeding, any issues regarding the potential effects that the proposed abandonments could have on El Paso's ability to maintain its service obligations.

16. El Paso's application stated that it was omitting Exhibit X (Abandonment's Effect on Existing Tariffs) because the abandonment would not result in a "material" change in rates. The EOC Shippers assert that, given the age of the Benson Compressor Station facilities, there should be no rate effect and that the Commission should direct El Paso to quantify the rate effect, if any, caused by the proposed abandonment. The rate effect of the abandonment is an issue that the EOC Shippers may raise in El Paso's on-going rate proceeding in Docket No. RP05-422-000.

17. The EOC Shippers contend that the Director's June 17 Order's failure to consider its comments prior to approval of the abandonment is a violation of due process and is legal error. This order considers the EOC Shippers' comments and, thus, we have avoided any prejudice to the members of the EOC Shippers. Further, we are not persuaded that the Director erred in granting El Paso's request for authority to abandon the Benson Compressor Station. Considering the information in the current record of this proceeding, there is no need to require El Paso to provide supplemental information concerning the effect of the abandonment on firm service.

The Commission orders:

The EOC Shippers' request for rehearing of the Director's June 17, 2005 Order is denied.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

