136 FERC ¶ 61,180
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

El Paso Natural Gas Company Docket No. CP10-510-000

ORDER APPROVING ABANDONMENT

(Issued September 15, 2011)

1. On September 28, 2010, El Paso Natural Gas Company (El Paso) filed an application under section 7(b) of the Natural Gas Act (NGA) requesting authorization to abandon its Deming and Tucson compressor stations located in Luna County, New Mexico and Pima County, Arizona, respectively. The Commission will authorize El Paso's abandonment proposal, as discussed below.

I. Background and Proposal

2. El Paso is a natural gas company as defined under the NGA, engaged primarily in the business of transporting natural gas in interstate commerce subject to the jurisdiction of the Commission. El Paso operates facilities located in the States of Texas, New Mexico, Colorado, Arizona, and California.

3. El Paso proposes to abandon in place the Deming and Tucson compressor stations. The Deming Compressor Station, a 23,100 horsepower (hp) station, is located at approximate milepost 305.1 on El Paso's Line 1100 and Line 1103 of El Paso's South Mainline System. El Paso was authorized to construct the Deming Compressor Station in the late 1940's, and the station was subsequently expanded in the 1950's. The Deming Compressor Station consists of twenty-one 1,100 hp reciprocating compressor units. The Tucson Compressor Station, a 18,700 hp station, is located at approximate milepost 519.5 on Line 1100 and Line 1103. As with the Deming station, the Tucson Compressor Station was constructed in the 1940's and expanded in the 1950's. The Tucson station consists of seventeen 1,100 hp reciprocating units.

4. El Paso states that the Deming and Tucson compressor stations are currently underutilized and obsolete. Specifically, El Paso states that capacity added in 2001 and 2003 on the South Mainline from its Line 2000 Project, along with continuing changes in the current and prospective markets being served by the South Mainline System, would allow El Paso to serve its current and anticipated firm markets without the use of the Deming and Tucson stations. Thus, El Paso states that its proposal will not result in

abandonment of service to, or have a significant impact on, any of its existing customers. Further, the Deming and Tucson stations have only served as back-up or reserve units since 2004 and 2002, respectively. The only time the units have been run recently was to maintain compliance with U.S. Department of Transportation and Environmental Protection Agency requirements.

5. Additionally, El Paso states that the compressor units are mechanically and thermodynamically inefficient with respect to fuel consumption and throughput in comparison with the newer turbine compression technology. El Paso notes that replacements for worn or broken compressor components must be custom manufactured, creating unnecessary operational costs.

6. Lastly, El Paso states that abandonment of the compressor stations would not adversely affect shippers' tariff rights, contractual pressures, or contracted firm capacity. El Paso notes that significant capacity has been available on its South Mainline System, and no customers have signed firm capacity contracts. El Paso acknowledges that over 500,000 Mcf per day of capacity is available on its South Mainline System and that the abandonment of the two compressor stations will result in a reduction in capacity of approximately 222,000 Mcf per day. If this abandonment is approved, the certificated capacity of the South Mainline System would be 1,068,000 Mcf per day. El Paso states that abandonment of the Deming and Tucson compressor stations will benefit customers because shippers will not be incurring the maintenance costs associated with these compressor stations that are not required to meet current or anticipated contractual obligations.

II. Notice and Interventions

7. Notice of El Paso's application was published in the *Federal Register* on October 12, 2010 (75 Fed. Reg. 62,515). Several parties[1] filed timely, unopposed motions to intervene.[2] Arizona Corporation Commission filed a motion to intervene out of time. Arizona Corporation Commission has demonstrated that it has an interest in this proceeding and granting Arizona Corporation Commission's untimely motion will not delay, disrupt, or otherwise prejudice this proceeding. Thus, we will grant the untimely motion to intervene pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure.[3]

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[1] *See* Appendix A to this Order.

[2] Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. *See* 18 C.F.R. § 385.214 (2011).

[3] 18 C.F.R. § 385.214(d) (2011).

A. Comments Related to the Effect of Abandonment

8. California Public Utilities Commission (California PUC) protests El Paso's proposed abandonment. California PUC states that El Paso's filing is insufficient to show a present or future public convenience or necessity to permit abandonment, because El Paso did not provide sufficient information regarding the current and future throughputs on its system and the impact that the proposed abandonment will have on El Paso's rate case. As such, California PUC requests an evidentiary hearing to examine the factual issues regarding El Paso's proposed abandonment and its effect on the pending rate case.

9. Indicated Shippers protest El Paso's proposed abandonment. They state that there is insufficient information in El Paso's application to determine if the abandonment is in the public interest. Indicated Shippers further note that El Paso's stated impact is based on 2002 flow data.

10. Southern California Edison Company (SoCal Edison) protests El Paso's proposed abandonment, stating that further exploration and analysis is necessary. Specifically, SoCal Edison states that the fact the compressors are no longer needed to serve firm contracts is insufficient to justify the abandonment and that a reduction in capacity on El Paso's system does not promote the public interest. SoCal Edison notes that this is particularly true because of El Paso's authority to charge up to 250 percent of cost-based long-term firm rates for short-term services. Lastly, SoCal Edison avers that El Paso has not demonstrated that the cost savings from the abandonment are sufficient to conclude that the proposal is in the public interest.

11. The Southern California Gas Company and San Diego Gas and Electric Company (SDG&E) support the abandonment of the Deming and Tucson compressor stations. However these parties express concern that this abandonment and future El Paso applications to "mothball or abandon" other compressor stations will reduce El Paso's operational flexibility.

12. In its November 9, 2010 Answer, El Paso states that the proposed abandonment is in both the present and future public interest. El Paso relies on *Trunkline Gas Company*[4] which approved the abandonment of transportation facilities based on a lack of long-term market demand coupled with the availability of other pipelines to serve the market area. Quoting *Trunkline*, El Paso states "the relevant criterion for the public interest is the pipeline's ability to meet anticipated requests for firm service after the abandonment becomes effective."[5]

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[4] *Trunkline Gas Co.*, 94 FERC ¶ 61,381 (2001).

[5] *Id.* P 19.

13. El Paso states that the flow diagrams it submitted with its application demonstrate that abandonment of the compressor stations will have no effect on El Paso's ability to meet current contractual demand. Additionally, El Paso notes that the proposed abandonment will not operationally impact current firm shippers. El Paso states that even when throughput on its system was at its historical high, the Deming and Tucson compressor stations only provided reliability and back up services. In October 2010, El Paso conducted an open season to solicit interest in its unsubscribed capacity and received no bids.

14. El Paso further reiterates that abandonment of the compressor stations will result in cost savings due to decreased operation and maintenance of the facilities. Further, El Paso states that any examination of the level of savings should be the subject of El Paso's pending rate case.

B. Comments Related to Consolidation of El Paso's Proceedings

15. California PUC requests that the proposed abandonment proceeding be consolidated with El Paso's currently pending rate case.[6] California PUC states that the two proceedings are linked because of El Paso's proposal to lower its rate base by $20 million in its rate case. California PUC believes that a consolidated proceeding provides a better opportunity to explore the issues and would be a more efficient use of the Commission's resources.

16. Arizona Public Service Company (APS) also requests this proceeding be consolidated with El Paso's pending rate case. APS contends that this is necessary to analyze the full impact of El Paso's proposed abandonment on El Paso's cost of service.

17. Indicated Shippers state that the proposed abandonment cannot be evaluated on a stand-alone basis, asserting that there are common issues of law and fact to the extent that consolidation would promote administrative efficiency. Specifically, Indicated Shippers aver that El Paso has assumed that the abandonment will be granted in its rate case and that the proposed abandonment will affect a variety of other issues in the rate case.

18. Salt River Project Agricultural Improvement and Power District (Salt River) requests that the Commission consolidate the proposed abandonment with the following proceedings: El Paso's proposed temporary abandonment, Docket No. CP11-17-000; El Paso's pending rate case; and El Paso's tariff filing, Docket No. RP11-1451-000.[7] Salt River states that the central issue in El Paso's rate case is the declining demand for capacity on the El Paso system and how that affects rates charged. Salt River states that

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[6] El Paso filed a section 4 rate filing on September 30, 2010 in Docket No. RP10-1398-000.

[7] The Commission has subsequently rejected El Paso's proposed tariff filing.

the issues in the rate case are intertwined with the issues in the abandonment proceeding and that it would be more efficient to address these issues in a consolidated proceeding.

19. Electric Generator Coalition (Electric Generator) requests that the Commission consolidate the proposed abandonment with El Paso's rate case. Electric Generator asserts that El Paso has not clearly stated what effect the abandonment will have on El Paso's proposed rates.

20. El Paso opposes consolidating the proposed abandonment with El Paso's pending rate case. El Paso states that the Commission generally considers rate issues associated with abandonment applications in a separate section 4 proceeding. El Paso maintains that, because the abandonment has no adverse impact on existing long-term firm shippers, the proposal is in the public interest regardless of any potential cost savings.

III. Discussion

21. The facilities El Paso proposes to abandon are used to transport natural gas in interstate commerce; therefore the proposal is subject to the jurisdiction of the Commission and the requirements of section 7(b) of the NGA.[8]

22. Section 7(b) provides that the abandonment of natural gas facilities or services may only be granted "after due hearing, and a finding by the Commission . . . that the present or future public convenience or necessity permit such abandonment."[9] Continuity and stability of existing service are the primary considerations in assessing the public convenience and necessity of a permanent cessation of service under section 7(b) of the NGA.[10]

23. As indicated in El Paso's application, the subject compressor facilities have provided only back-up reliability service for more than six years and are no longer needed to provide firm transportation service to El Paso's existing customers. Thus, we find that the proposed abandonment will have no adverse impact on current firm shippers or service on El Paso's system. Abandonment will enable El Paso to avoid costs associated with repairing old compressor units and the ongoing maintenance costs associated with the stations. In view of these considerations, the Commission finds that El Paso's abandonment proposal is permitted by the public convenience or necessity.

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[8] 15 U.S.C. § 717f(b) (2006).

[9] *Id*.

[10] *Southern Natural Gas Co.*, 126 FERC ¶ 61,246 (2009). *See also Gulf Oil v. FERC*, 575 F.2d 67, 69-70 (3d Cir. 1978); *Farmland Industries, Inc. v. Kansas-Nebraska Natural Gas Co.*, 349 F.Supp. 670, 680-81 (D.C. Neb. 1972), *aff'd* 486 F.2d 315 (8th Cir. 1973).

24. As noted above, several parties protested El Paso's proposal. These parties assert that El Paso failed to provide sufficient information regarding the current and future throughput on its system. The Commission finds that El Paso's flow diagrams in its application, as well as its description of the changes that have occurred on its system, provide the justification necessary to find that the abandonment is in the public interest.

25. El Paso notes that the excess capacity currently available on the South Mainline system is the result of changes in supply and market conditions, rather than a lack of compression upstream on the system. Specifically, El Paso states that approximately 500,000 Mcf per day of capacity on the South Mainline system serves industrial, residential, commercial, and power generation needs in west Texas and Mexico near El Paso, Texas. These significant deliveries create excess capacity on the South Mainline system downstream of this area because of a lack of significant receipts west of El Paso, Texas. Therefore, the abandonment of the subject compressors, located west of El Paso, Texas, would not have a detrimental impact on the current flows on El Paso's South Mainline system and the compression facilities are not required to meet its current firm transportation requirements. This assertion is borne out by the flow diagrams submitted by El Paso with its application.

26. With respect to future capacity, El Paso held an open season for capacity on its South Mainline System, and no customers bid on the available capacity. This lack of demand supports El Paso's claim that there will not be a future impact on firm transportation services on its system. Further, concerns over El Paso's operational flexibility are without merit. The fact that there is more capacity than demand on El Paso's system demonstrates that any lack of operational flexibility resulting from the proposed abandonment will not impact firm transportation services.

27. Additionally, several parties raised concerns about what impact the reduction in capacity resulting from the abandonment will have on El Paso's pending rate case. As stated above, the Commission finds that the compression facilities are no longer required to meet El Paso's firm transportation demands. The effect of this abandonment on El Paso's throughput and any potential savings associated with the abandonment are the subject of El Paso's section 4 rate proceeding and parties can raise those issues there.[11]

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[11] In its April 1, 2011 Filing to place into effect its suspended rates and tariff provisions in Docket No. RP10-1398-002, El Paso states that its rates are based on a cost of service that continues to reflect a $20 million reduction that El Paso proposed in anticipation of approval of its proposals to permanently abandon and temporarily deactivate certain compressor units in Docket Nos. CP10-510-000 and CP11-17-000, respectively. *See El Paso Natural Gas Co*., Docket No. RP10-1398-002, at P 1 (May 5, 2011) (delegated letter order).

The requests for consolidation are denied, consistent with our order in Docket No. CP11-17-000.[12]

28. Finally, we will deny California PUC's request for an evidentiary trial-type hearing. Such a hearing is necessary only when material issues of fact are in dispute that cannot be resolved on the basis of the written record.[13] We find that the written record provides a sufficient basis upon which to resolve the factual issues presented in this case. Consequently, there is no need for an evidentiary hearing in this proceeding.

Environmental Analysis

29. To satisfy the requirements of the National Environmental Policy Act, staff prepared an environmental assessment (EA) for El Paso's proposed abandonment. The EA was placed into the public record on January 31, 2011. The proposed abandonment activity would be limited to cutting and capping aboveground suction and discharge piping located within the compressor stations. Due to the limited scope of the project and lack of ground disturbance, the EA concluded that the abandonment would not constitute a major federal action significantly affecting the quality of the human environment.

30. At a hearing held on September 15, 2011, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application(s), as supplemented, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) El Paso is granted permission and approval under NGA section 7(b) to abandon the Deming and Tucson compressor stations, as more fully described in this order and in El Paso's application.

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[12] *See El Paso Natural Gas Co.*, 135 FERC ¶ 61,079, at P 14 (2011) (denying the requests to consolidate Docket No. CP11-17-000 with El Paso's rate case in Docket No. RP10-1398-000 and its application for authority to abandon in Docket No. CP10-510-000). While in that case the Commission's denial of El Paso's petition rendered protestors' concerns about rate impacts moot, its explanation that matters will be consolidated only if consolidation is required to "resolve common issues of law and fact" and if "consolidation will ultimately result in greater administrative efficiency" apply equally here. *Id.* at 10.

[13] *See, e.g., Southern Union Gas Co. v. FERC*, 840 F.2d 964, 970 (D.C. Cir. 1988); *Cerro Wire & Cable Co. v. FERC*, 677 F.2d 124 (D.C. Cir. 1982); *Citizens for Allegan County, Inc. v. FPC*, 414 F.2d 1125, 1128 (D.C. Cir. 1969).

(B) El Paso shall notify the Commission within 10 days of the date of abandonment of the facilities.

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

(D) The protests of the parties listed above are denied.

(E) Arizona Corporation Commission's untimely motion to intervene is granted.

(F) The motions to consolidate Docket No. CP10-510-000 with other El Paso proceedings, as discussed in this order, are denied.

(G) California PUC's request for an evidentiary hearing is denied.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A

Timely interventions were filed by the following parties:

Arizona Electric Power Cooperative, Inc.
Atmos Energy Corporation
Atmos Energy Marketing LLC
BP America Production Company and BP Energy Company
ConocoPhillips Company
El Paso Electric Company
El Paso Municipal Customer Group
Freeport-McMoRan Corporation
Gila River Power, LP
Sempra Global
Golden Spread Electric Cooperative
MGI Supply Ltd.
New Mexico Gas Company, Inc.
PSEG Energy Resources and Trade, LLC
Pacific Gas and Electric Company
Public Service Company of New Mexico
Shell Energy North America
Sierra Southwest Cooperative Services Inc.
Southwest Gas Corporation
Texas Gas Service Company
Tucson Electric Power Company and UNS Gas, Inc.
Salt River Project Agricultural Improvement and Power District
Arizona Public Service Company
Electric Generator Coalition
Indicated Shippers
Southern California Edison Company
Southern California Gas Company
San Diego Gas & Electric
Public Utilities Commission of the State of California