

143 FERC 61,042
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

EL Paso Natural Gas Company, L.L.C.

Docket Nos. CP12-6-001
CP12-7-001

ORDER DENYING REHEARING

(Issued April 18, 2013)

1. On November 13, 2012, El Paso Natural Gas Company, L.L.C. (El Paso) filed a request for rehearing of an October 12, 2012 order granting El Paso a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act (NGA) and a companion certificate pursuant to section 3 of the NGA to amend and reissue El Paso's existing Presidential Permits.¹ The order authorized El Paso to increase capacity on its Willcox Lateral by reconfiguring the Willcox Compressor Station and existing delivery meter stations in Cochise County, Arizona (Willcox Lateral 2013 Expansion Project). In addition, the order amended El Paso's existing Presidential Permits to increase the export capacity at three separate border crossing facilities served through the Willcox Lateral. However, the order denied El Paso's request for a predetermination of rolled-in rate treatment for the expansion project and its proposal to apply an incremental fuel charge to existing firm customers' overrun or alternate firm service and to interruptible transportation (IT) shippers. El Paso seeks rehearing of the determination regarding the application of an incremental fuel charge to IT shippers. As discussed below, we deny the request for rehearing.

Background

2. The Willcox Compressor Station was originally constructed in the late 1940s to allow for the transportation of natural gas from production areas in west Texas and southwestern New Mexico to locations in New Mexico, Arizona, and to the California border. The Willcox Lateral was constructed in 2001 and 2002, with a daily design capacity of 130,000 million cubic feet (Mcf) per day. The Willcox Lateral consists of a

¹ *El Paso Natural Gas Co.*, 141 FERC ¶ 61,026 (2012) (October 2012 Order).

pipeline commencing at the suction side of the Willcox Compressor Station and extending south approximately 61.4 miles. The lateral then bifurcates into an east and west branch with metering facilities near the terminus of each branch lateral line.² The west branch lateral line extends southwesterly for approximately 2.9 miles, terminating near the International Boundary between the United States and Mexico. The east branch line extends southeasterly for approximately 12.2 miles, terminating at a point southwest of Douglas, Arizona at the International Boundary between the United States and Mexico. The Commission issued Presidential Permits and NGA section 3 authorizations for El Paso's associated border crossing facilities in orders issued in 1998 and 2000.³

3. The Willcox Lateral is currently tied into El Paso's mainline at the suction side of the Willcox Compressor Station; as a result, the Willcox Compressor Station does not provide any compression for the Willcox Lateral and is currently configured to provide only mainline compression.

4. In this proceeding, El Paso proposed to increase the capacity of the Willcox Lateral by reconfiguring its Willcox Compressor Station from mainline service to lateral service to serve future power plant infrastructure in the State of Sonora, Mexico.⁴ El Paso also proposed to amend its existing Presidential Permits to increase the export capacities of the border crossings served by the Douglas, El Fresnal and Willmex Meter Stations. As proposed, the authorized capacities of the border crossing facilities would match the delivery capabilities of the upstream meter stations. The total expanded capacity of the Willcox Lateral would be 315,000 Mcf per day.

² The Willmex Meter Station is located at the terminus of the west branch and the El Fresnal Delivery Point is located at the terminus of the east branch. The Douglas Meter Station is located approximately one-mile upstream of the El Fresnal Meter Station, and is currently connected to Line No. 1004.

³ The Presidential Permits and NGA section 3 authorizations were granted in *El Paso Natural Gas Co.*, 84 FERC ¶ 61,065 (1998) (border crossing facility connected to the Douglas Meter Station), and *El Paso Natural Gas Co.*, 90 FERC ¶ 61,126 (2000) (border crossing facilities connected to the El Fresno and Willmex Meter Stations).

⁴ Two new power plants are being constructed in the State of Sonora, located in northern Mexico, which will utilize natural gas as fuel for the generation of electricity. MGI Supply Ltd. (MGI) and Mexicana de Cobre, S.A. de C.V. (Mexicana de Cobre) have executed transportation precedent agreements with El Paso to support these power facilities.

The October 12 Order

5. In the October 2012 Order, the Commission granted authorization to El Paso to reconfigure its Willcox Compressor Station from mainline service to lateral service to serve future power plant infrastructure in the State of Sonora, Mexico.⁵ In addition, the Commission granted El Paso's request to amend and reissue its Presidential Permits to increase the authorized capacities of the border-crossing facilities.⁶

6. However, the Commission denied El Paso's request for predetermination of rolled-in rate treatment, finding that the information submitted with the application indicated that the revenue generated by the discounted transportation rates would fail to meet the annual cost-of-service requirement.⁷ The Commission stated that its finding was without prejudice to El Paso requesting rolled-in rate treatment in a future NGA section 4 proceeding.

7. The Commission also rejected El Paso's proposal to assess a new fuel charge to IT customers, as well as overrun and alternate firm service customers.⁸ The Commission found that El Paso may not change the existing approved Willcox Lateral fuel rate applicable to existing customers and capacity in an NGA section 7 proceeding. In addition, the Commission found that the Willcox Lateral 2013 Expansion Project is integrated with the existing Willcox Lateral and that the interruptible service to be rendered on the Willcox Lateral by the existing facilities and the Willcox Lateral 2013 Expansion Project is identical. The Commission concluded that assessing the same charge for the same service on an integrated facility is consistent with the Commission's policy on allocative efficiency in rate design.⁹ The Commission also stated that its findings were without prejudice to El Paso proposing to apply a new fuel charge on all services on the Willcox Lateral in a future NGA section 4 proceeding.

8. On November 13, 2012, El Paso filed its request for rehearing. El Paso asserts that the Commission's rejection of its proposal to apply an incremental fuel charge to IT shippers appears to result from a misunderstanding that IT service using the expansion facilities is identical to the IT service using the existing Willcox Lateral facilities. El Paso claims that the IT services are distinct and attempts to distinguish between IT

⁵ October 2012 Order, 141 FERC ¶ 61,026 at P 20.

⁶ *Id.* P 27.

⁷ *Id.* P 21.

⁸ *Id.* P 22.

⁹ *Id.* (citing *Kern River Gas Transmission Co.*, 117 FERC ¶ 61,077, at PP 326-338 (2006)).

shippers nominating deliveries to the Douglas and El Fresno Meter Stations and IT shippers nominating deliveries to the Willcox Meter Station.¹⁰ El Paso argues that its proposal to assess the incremental fuel charge to IT expansion shippers nominating deliveries to the Douglas and El Fresno Meter Stations, who are responsible for increased fuel use on the project, is consistent with Commission policy.¹¹

Discussion

9. The sole issue on rehearing is whether El Paso should be permitted to apply an incremental fuel charge to IT shippers on the Willcox Lateral.¹² In the October 2012 Order, the Commission concurred with El Paso that since the Willcox Lateral 2013 Expansion Project is largely a compression-based expansion, a fuel charge is appropriate for new firm customers on the incremental capacity.¹³ The Commission also granted El Paso's proposal not to apply the new fuel charge to existing firm contracts on the Willcox Lateral, which have been served historically without the use of compression.¹⁴ However, the Commission rejected El Paso's proposal to assess a fuel charge to all IT customers, as well as existing firm customers' overrun or alternate firm service on the Willcox Lateral. The Commission held that currently-effective rates and contracts for overrun and alternate firm service do not have a fuel charge, and El Paso cannot change the existing approved Willcox Lateral fuel rate applicable to existing customers and capacity in an NGA section 7 proceeding.¹⁵ The Commission also rejected El Paso's proposal to apply a new fuel charge to IT customers. The Commission explained that, since the Willcox Lateral 2013 Expansion Project is integrated with the existing Willcox Lateral, the interruptible service to be rendered on the Willcox Lateral by the existing facilities and the expansion facilities are identical. Thus, the same charge should be assessed for the same service on the integrated facility, consistent with the Commission's policy on allocative efficiency in rate design.¹⁶

¹⁰ See Request for Rehearing at 7-8.

¹¹ See Request for Rehearing at 13.

¹² El Paso does not seek rehearing of the Commission's determination that El Paso cannot apply a new fuel charge to existing firm customers' overrun or alternate firm service on the Willcox Lateral.

¹³ See October 2012 Order, 141 FERC ¶ 61,026 at P 22.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

10. In its rehearing request, El Paso asserts that IT service using the Willcox Lateral Expansion facilities is separate and distinct from IT service using the existing Willcox Lateral facilities. According to El Paso, service on the expansion facilities is significantly different because the expansion facilities were designed to enable El Paso to meet a new, higher delivery pressure commitment at the modified El Fresnal and Douglas Meter Stations, whereas IT shippers that deliver to the Willmex Meter Station do not require compression because they will have the same minimum delivery pressure requirement after the expansion project.¹⁷ Thus, El Paso states, the incremental fuel charge would apply only to IT deliveries nominated to the El Fresnal and Douglas Meter Stations. El Paso also states that allocation of incremental fuel charges to IT shippers nominating deliveries to the El Fresnal and Douglas Meter Stations is consistent with the Commission's policy that fuel costs should be allocated to the IT shippers that cause increased fuel use for compression.¹⁸

11. The Commission is not persuaded by El Paso's claims. As stated in the October 2012 Order, El Paso cannot change the existing approved Willcox Lateral fuel rate applicable to existing customers and capacity in an NGA section 7 proceeding. That principle applies to interruptible, as well as firm, service.¹⁹ The Commission explained that El Paso may propose to apply a new fuel rate for all services on the Willcox Lateral facilities in a future NGA section 4 rate proceeding. In addition, Commission policy generally does not allow a separate IT rate for additional capacity related to new compression projects on an integrated system like the Willcox Lateral.

12. The Commission also disagrees with El Paso's new argument that the IT service using the Willcox Lateral Expansion facilities is separate and distinct from the IT service using the existing Willcox Lateral facilities. It is evident from El Paso's application and Attachment A of El Paso's rehearing request that the Willcox Lateral 2013 Expansion Project will be integrated with the existing Willcox Lateral. All gas on the Willcox Lateral will move through the Willcox Compressor Station at the same unregulated pressure. In order to accommodate the increased pressure from the reconfigured Willcox Compressor Station, El Paso states it will increase the maximum allowable operating pressure (MAOP) of both Line Nos. 2163 and 2164 to 1,260 psig; before the expansion,

¹⁷ See El Paso Rehearing Request at 10-11.

¹⁸ *Id.* at 12-13.

¹⁹ See, e.g., *Kern River Gas Transmission Co.*, 132 FERC ¶ 61,226, at P 32 (2010) (pipeline proposed changes in section 7 proceeding to compressor fuel factors for interruptible service on expansion facilities).

the MAOP of the Willcox Lateral was 600 psig.²⁰ The Willmex Meter Station is located at the terminus of Line No. 2163. The El Fresnal Meter Station is located at the terminus of Line No. 2164, which branches east from an intersection with Line No. 2163, and, after completion of the expansion project, the Douglas Meter Station will be connected to Line No. 2164. No pressure regulator is currently located or will be located on the Willcox Lateral facilities;²¹ thus, all interruptible service on the Willcox Lateral will be using the compression-based expansion facilities, as integrated with the existing Willcox Lateral facilities, and will incur fuel costs, regardless of which delivery point is nominated or whether the interruptible service needs compression.

13. In its application, El Paso did not draw any distinctions between IT service using the El Fresno and Douglas Meter Stations and IT service using the Willmex Meter Station for purposes of applying an incremental fuel charge. El Paso stated, for example, that following the proposed modifications, the Willcox Compressor Station will be dedicated to Willcox Lateral service and “will be configured to solely compress gas off EPNG’s South Mainline System down the Willcox Lateral to the Willmex, El Fresnal, and Douglas Meter Stations.”²² In addition, in describing the expansion project, El Paso stated that, although no physical modifications would be undertaken at the Willmex Meter Station, the increased pressure of the Willcox Lateral “will have the secondary effect of increasing the pressure at the Willmex Meter Station. The maximum delivery capability of the Willmex Meter Station will increase to 130,000 Mcf per day.”²³ El Paso specifically listed the increased capacity of the Willmex Meter Station as a modification for which it sought authorization.²⁴ El Paso also claimed that the “dedication of the Willcox Compressor Station will provide greater operational reliability and flexibility on the Willcox Lateral,” thus benefiting not only the new firm expansion customers, but

²⁰ As explained in El Paso’s application, the Willcox Lateral consists of a 20-inch diameter lateral line commencing at the Willcox Compressor Station and extending south approximately 61.4 miles. The lateral then bifurcates into two 16-inch diameter east and west branch lateral lines with metering facilities near the terminus of each branch lateral line. The west branch lateral line extends southwesterly for approximately 2.9 miles, terminating near the International Boundary between the United States and Mexico; the 20-inch diameter lateral line and the 16-inch diameter west branch lateral line together constitute Line No. 2163. The east branch lateral line (Line No. 2164) extends southeasterly for approximately 12.2 miles, terminating at the International Boundary.

²¹ A pressure regulator is and will remain located immediately downstream of the Willmex Meter Station.

²² See Application at 13.

²³ *Id.* at 11.

²⁴ *Id.* at 19.

other Willcox Lateral customers as well.²⁵ El Paso has not retracted or changed any of these assertions, which confirm that the Willcox Lateral 2013 Expansion Project will be integrated with and will affect all of the existing Willcox Lateral facilities.

The Commission orders:

For the reasons discussed above, the request for rehearing filed by El Paso on November 13, 2012, is denied.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

²⁵ *Id.* at 18.