

153 FERC ¶ 61,204
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Impulsora Pipeline, LLC

Docket No. CP14-513-001

ORDER DENYING REHEARING, AMENDING SECTION 3 AUTHORIZATION,
AND ISSUING PRESIDENTIAL PERMIT

(Issued November 19, 2015)

1. On June 15, 2015, Needmore Dolores LLC (Needmore) filed a timely request for rehearing of the Commission's May 14, 2015 order¹ which granted Impulsora Pipeline LLC's (Impulsora) request for authorization pursuant to section 3 of the Natural Gas Act (NGA)² and a Presidential Permit to site, construct, and operate border-crossing facilities for the purpose of exporting natural gas to Mexico. As discussed below, we will deny Needmore's request for rehearing.

I. Background

2. The May 14 Order authorized Impulsora to site, construct, and operate border-crossing facilities at the international boundary between the United States in Webb County, Texas, and Mexico in the vicinity of Colombia, State of Nuevo Leon. Specifically, the May 14 Order authorized Impulsora to construct one 36-inch-diameter, 4,000-foot-long pipeline and one 12-inch-diameter, 2,500-foot-long pipeline that will run parallel to the proposed 36-inch-diameter pipeline.³ The border crossing facilities will

¹ *Impulsora Pipeline, LLC*, 151 FERC ¶ 61,117 (2015) (May 14 Order).

² 15 U.S.C. § 717b(a) (2012); 18 C.F.R. Part 153 (2015).

³ Of the 6,500 feet of border-crossing pipeline to be constructed, only approximately 2,800 feet (1,400 feet of each parallel pipeline) will be located on the United States side of the international boundary.

have a design capacity of approximately 1,120 million cubic feet (MMcf) per day⁴ and a maximum allowable operating pressure of 1,440 pounds per square inch gauge. The May 14 Order also authorized Impulsora to construct and operate meter and pigging equipment, consisting of one 12-inch pig receiver and one 36-inch pig receiver that will be situated on 0.6 acres of land.

3. Impulsora's proposed border-crossing facilities will receive gas from Texas Pipeline Webb County Lean System, LLC's (TP Lean) contemplated Eagle Ford Gathering (EFG) Extension.⁵ When constructed, the EFG Extension will consist of approximately 6.2 miles of 12-inch-diameter pipeline, extending in a southerly direction from TP Lean's existing facilities in Webb County, Texas, to the proposed border-crossing facilities. The EFG Extension is expected to initially transport Texas-sourced gas received from TP Lean's intrastate system.

4. In Mexico, the gas will be delivered to a short pipeline to be constructed on behalf of Impulsora LT, S.A.P.I. de C.V. That pipeline will, in turn, deliver the gas into a pipeline system owned by Con-Gas, S.A.P.I. de C.V., which will transport the gas to a power plant to be constructed near Colombia, State of Nuevo Leon, Mexico.

5. Needmore, the owner of a 14,000-acre ranch and the only landowner impacted by Impulsora's proposals, protested the project, urging the Commission to deny the requested authorization under section 3 and the Presidential Permit because Impulsora and TP Lean had not yet acquired the property rights from Needmore necessary to construct the border-crossing facilities and EFG Extension on Needmore's property. Needmore also claimed that the Environmental Assessment (EA) failed to adequately describe the facilities to be constructed on its property and their permanent impacts including Impulsora's future plans for abandonment of the project; the project's potential impact on deer hunting, livestock operations, and birdwatching; and the cumulative impacts of the non-jurisdictional EFG Extension proposed by TP Lean that would be located on Needmore's property. The May 14 Order dismissed the property rights concerns and environmental issues raised by Needmore.

⁴ The 12-inch and 36-inch-diameter pipelines will have design capacities of 120 and 1,000 MMcf per day, respectively.

⁵ TP Lean is an intrastate pipeline with approximately 133.5 miles of pipeline.

II. Request for Rehearing

A. Property Rights

6. Needmore states that the Commission erred in finding that it is not inconsistent with the public interest to grant Impulsora authorization under section 3 and a Presidential Permit to site, construct, and operate border-crossing facilities primarily because Impulsora has not yet negotiated an easement agreement consistent with Needmore's "preferred terms" to obtain the necessary property rights for the facilities on Needmore's property.⁶

7. Section 3 of the NGA compels the authorization of the export or import of natural gas to or from a foreign country "with which there is in effect a free trade agreement requiring national treatment for trade in natural gas," "without modification or delay."⁷ The North America Free Trade Agreement signed by the United States and Mexico is such an agreement. The lack of an easement agreement "under Needmore's preferred terms," with Impulsora and the potential that some unidentified, interested "other" entity may be more willing to negotiate under those terms has no bearing on whether the project currently before the Commission is inconsistent with the public interest.⁸

8. Needmore states that the section 3 authorization and Presidential Permit are not consistent with the public interest because its research has shown that granting the authorizations over the objection of the landowner would be unprecedented. However, it would be equally unprecedented for the Commission to deny section 3 authorization on the basis that necessary property rights had not yet been obtained. As noted in the May 14 Order, neither an authorization under NGA section 3 nor a Presidential Permit conveys the right of eminent domain.⁹ Accordingly, notwithstanding our issuance of the

⁶ Needmore Request for Rehearing at 8. Needmore claims that as long as Impulsora holds the Presidential Permit and section 3 authorization, "other entities potentially interested in constructing a cross-border facility on Needmore's property – which may be more willing ... to negotiate an easement under Needmore's preferred terms – will be deterred from moving forward."

⁷ 15 U.S.C. 717b(c) (2012).

⁸ The Commission's grant of section 3 authorization and a Presidential Permit to Impulsora does not operate as a bar to its granting similar authorization to another entity, should one come forward.

⁹ May 14 Order. 151 FERC ¶ 61,117 at P 15.

requested authorizations, Impulsora will not be able to lawfully proceed with its project until and unless it acquires the necessary property rights from Needmore.

9. Needmore further maintains that the principles of the Commission's Certificate Policy Statement¹⁰ apply to authorizations under section 3 of the NGA and therefore require the Commission to consider the potential impact of the project on landowners and their property rights.¹¹ Specifically, Needmore notes that in the *Bradford Landing LLC* case, the Commission found that granting a section 3 authorization was not inconsistent with the public interest in part because Bradford Landing was precluded from using eminent domain to acquire the necessary property rights. Needmore expresses concern about Impulsora's statement that both it and TP Lean would invoke state eminent domain under Chapter 121 of the Texas Utilities Code in order to obtain the property rights necessary to construct the border-crossing facilities and the non-jurisdictional EFG Extension.¹² According to Needmore, Impulsora's contemplated use of state eminent domain would render the project inconsistent with the public interest and constitute a failure to comply with section 3 of the NGA.

10. As stated above, Impulsora does not have authority under section 3 of the NGA to use federal eminent domain law to take Needmore's property. The Commission, however, has no jurisdiction over whether Impulsora may be able to use Texas eminent domain law to obtain the necessary property rights. In any event, as discussed above, the NGA provides that the import or export of natural gas from or to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas "shall be deemed to be consistent with the public interest."¹³ Moreover, Impulsora has demonstrated that it has a customer who has subscribed to the gas to be transported

¹⁰ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128 (2000), *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

¹¹ Request for Rehearing at 10 (citing *Bradwood Landing LLC*, 126 FERC ¶ 61,035, at P 180 (2009)).

¹² Impulsora October 7, 2014 Answer to Needmore's Motion to Intervene.

¹³ 15 U.S.C. 717b(c) (2012).

through the border-crossing facilities. Thus, under the principles of the Certificate Policy Statement, Impulsora has demonstrated a need for the proposed project.¹⁴

11. Needmore also alleges that, by failing to take its preferences into account when authorizing the project, the Commission violated section 380.15 of the Commission's regulations, which provides that "the desires of landowners should be taken into account in the planning...of facilities on their property."¹⁵

12. Section 380.15 of the Commission's regulations requires the Commission to *consider* a landowner's preferences, not necessarily reach their preferred outcome. The May 14 Order found that construction of the border-crossing facilities would temporarily disturb approximately 1.6 acres of land and that Impulsora would permanently maintain 0.6 acres of land for project operation. Following construction, Impulsora will be required to restore the disturbed area to its former use. The authorization granted in the May 14 Order is also subject to conditions to mitigate any adverse environmental impacts. In considering Impulsora's proposal, we carefully considered Needmore's concerns, but ultimately found that, despite Needmore's protest, the approval of Impulsora's proposed facilities for the exportation of natural gas is not inconsistent with the public interest. We did not violate section 380.15.

13. Needmore also claims that the Commission did not provide it with an opportunity to comment on Impulsora's proposed project until after the EA was issued.

14. This is incorrect. The Commission issued public notice of Impulsora's application on July 16, 2014. On the same day, Impulsora sent Needmore a letter stating that: "[p]ursuant to FERC requirements, we are required to provide you with notification of the FERC notice relating to our application, enclosed. This letter does not require any other action on your part."¹⁶

15. While Needmore claims that it "did exactly as it was told" and took no further action upon receiving the letter, the public notice included with Impulsora's letter stated that:

¹⁴ Contrary to Needmore's assertions, the Certificate Policy Statement specifically recognizes that a "holdout landowner" cannot veto a project where there is evidence of public benefit. Certificate Policy Statement, 92 FERC at 61,749.

¹⁵ 18 C.F.R. § 380.15 (2015).

¹⁶ Impulsora July 16, 2014 Letter to Needmore.

[A]ny person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file...a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure...and the Regulations under the NGA. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project.

16. Thus, while there was no requirement for Needmore to take further action at the time it received notice of Impulsora's application if it chose not to, it was notified of the fact that it had the opportunity to do so.

B. Environmental Issues

1. Non-jurisdictional facilities

17. Needmore contends that the EA failed to adequately consider the impacts of TP Lean's non-jurisdictional EFG Extension on its property. Needmore maintains that the Commission was required to include a comprehensive environmental review of the EFG Extension in its EA for the Impulsora border-crossing facilities. We disagree.

18. The EFG Extension is not a part of Impulsora's proposed project but, rather, is an extension of an existing intrastate pipeline subject to the jurisdiction of the Texas Railroad Commission.¹⁷ Nevertheless, Commission staff described the non-jurisdictional EFG Extension and the potential environmental impacts related to its construction in the Cumulative Impacts section of the EA for this proceeding, including impacts to land use, geology, soils, water resources, wildlife, vegetation, cultural resources, air quality, and noise.¹⁸ The EA concluded that both the border-crossing facilities and the EFG Extension would result in only minor, temporary impacts to the project area and that neither the EFG Extension nor the border-crossing facilities would contribute significantly to the cumulative impacts on the resources in the project area.¹⁹

¹⁷ EA at 4.

¹⁸ EA at 18-23.

¹⁹ "Each project would represent a negligible contribution to the overall cumulative impacts in the Project area." EA at 23.

19. Notwithstanding the fact that no significant cumulative impacts were identified in the EA's analysis of the EFG Extension, Needmore argues that the Commission was nevertheless required to review impacts of the EFG Extension as though the construction of those facilities was part of our action in approving Impulsora's proposed border crossing facilities. Under the test developed by the U.S. Corps of Engineers, the following four factors are considered in order to determine whether there is sufficient federal control over a non-jurisdictional project to warrant inclusion of the projects in the agency's environmental analysis: (i) whether or not the regulated activity comprises "merely a link" in a corridor-type project (e.g., a transportation or utility transmission project); (ii) whether there are aspects of the non-jurisdictional facility in the immediate vicinity of the regulated activity which uniquely determine the location and configuration of the regulated activity; (iii) the extent to which the entire project will be within the Commission's jurisdiction; and (iv) the extent of cumulative federal control and responsibility over the entire project.²⁰

20. With respect to the first factor, the regulated activity, i.e., Impulsora's border-crossing facility, is "clearly *only* a link"²¹ in TP Lean's larger intrastate pipeline system. While TP Lean's intrastate system consists of approximately 133.5 miles of pipeline, and its proposed EFG Extension is approximately 6.25 miles long, the border-crossing

²⁰ See *Algonquin Gas Transmission Company*, 59 FERC ¶ 61,255 at 61,934 (1992) (*Algonquin*). Some parties in the *Algonquin* proceeding opposed the construction of the new electric generation plant that would be served by Algonquin's proposed pipeline facilities. The Commission acknowledged that, in light of the courts' holdings in *Henry v. FPC*, 513 F.2d 395 (D.C. Cir. 1975) and *Winnebago Tribes of Nebraska v. Ray*, 621 F.2d 269, 272 (8th Cir.), cert. denied, 449 U.S. 836 (1980) (*Winnebago*), there may be situations where there is sufficient nexus between proposed jurisdictional facilities and planned non-jurisdictional facilities and sufficient Federal control and responsibility over all the facilities that the projects should be viewed as one Federal action for environmental purposes, requiring the Commission to give some environmental consideration to the non-jurisdictional facilities. *Algonquin*, 59 FERC at 61,935-36. Therefore, in *Algonquin* the Commission applied the four-prong test that was developed by the U. S. Corps of Engineers following the *Winnebago* decision and upheld by the court in *Sylvester v. Corps of Engineers*, which found that the Corps' procedures "strike an acceptable balance between the needs of NEPA and the Corps' jurisdictional limitation." 884 F.2d 394 (9th Cir. 1989). The Commission concluded in *Algonquin* that it did not have sufficient control and responsibility to cause the construction of the private electric generation power plant to become a Federal action.

²¹ *Algonquin*, 59 FERC at 61,935 (emphasis added).

facilities over which the Commission has jurisdiction consist of only 1,400 feet of 36-inch-diameter pipeline, and 1,400 feet of parallel 12-inch-diameter pipeline. Thus, the border-crossing facilities comprise only a minor part of a much larger system and project over which the Commission does not have jurisdiction. This factor, therefore, does not support including analysis of the EFG Extension as part of the Commission's action in the EA of Impulsora's project.

21. In addition, Needmore maintains that, because Impulsora and TP Lean share the same parent company, Howard Midstream Energy Partners, LLC²² the border-crossing facilities and gathering lines are two parts of a "uniform project." We find this argument inapposite. Impulsora and TP Lean's corporate ownership has no bearing on the fact that Impulsora's proposed border-crossing facilities are merely a link connecting a much larger, non-jurisdictional gathering system to facilities which will deliver gas to a customer in Mexico.

22. With respect to the second factor, while the location of Impulsora's border-crossing facilities was generally affected by the location of the EFG Extension, Impulsora chose the ultimate location of the project in order to "traverse the shortest distance necessary across the Rio Grande River."²³ Thus, although the location of the EFG Extension impacted the location of the border-crossing facilities, courts have rejected the notion that satisfaction of the second factor requires the Commission to extend its jurisdiction over non-jurisdictional facilities.²⁴

23. With respect to the third factor, the extent to which the entire project will be within federal jurisdiction further weighs against extending the scope of the Commission's environmental review to the EFG Extension. As noted in the EA, the majority of the border crossing pipeline will be located in Mexico, with only approximately 2,800 of the 6,500 feet of border crossing pipeline subject to United States federal jurisdiction.²⁵ The 6.25-mile-long EFG Extension and the larger intrastate pipeline system are entirely within the jurisdiction of the Texas Railroad Commission and local authorities. Further, the Commission has no authority over the permitting,

²² Howard Midstream Energy Partners, LLC, owns and operates over 500 miles of pipeline in the Eagle Ford shale region.

²³ EA at 24.

²⁴ *Nat'l Comm. for the New River*, 373 F.3d at 1334.

²⁵ EA at 1.

licensing, funding, construction or operation of the EFG Extension.²⁶ The Commission's jurisdiction over Impulsora's border-crossing facilities is insufficient to warrant "federalizing" the much larger intrastate pipeline system.

24. Finally, with respect to the last factor, cumulative federal control over the non-jurisdictional portion of a project is determined by the amount of federal financing, assistance, direction, regulation, or approval inherent in a project.²⁷ Here, federal control over the project is limited to Impulsora's border-crossing facilities; there is no federal involvement with respect to the EFG Extension, or TP Lean's larger intrastate pipeline system. Consequently, cumulative federal control is minimal and does not warrant extending the Commission's environmental review to include the EFG Extension.

25. In view of the above considerations, on balance we find that we are not compelled to consider the EFG Extension as part of our action of authorizing Impulsora's proposal for purposes of the National Environmental Policy Act (NEPA).²⁸ Moreover, the EA's consideration of the EFG Extension in the cumulative impacts analysis was sufficient to satisfy our NEPA responsibility.

2. Alternatives Analysis

26. Needmore contends that the EA violated NEPA because it failed to consider and "rigorously explore and objectively analyze" alternatives to Impulsora's proposals, as required by the Council on Environmental Quality (CEQ).²⁹ Needmore suggests the EA states that alternatives were not analyzed because "participants did not propose project alternatives."

27. NEPA requires the Commission to "identify the reasonable alternatives to the contemplated action" and "look hard" at the impacts of the final action.³⁰ NEPA does not define "reasonable alternatives;" however, CEQ has indicated that "a reasonable range of

²⁶ *Tuscarora Gas Transmission Co.*, 98 FERC ¶ 61,071, at 61,198 (2002).

²⁷ *Algonquin*, 59 FERC at 61,935.

²⁸ *See* 40 C.F.R. § 1501.14 (2015).

²⁹ *Id.*

³⁰ *Minisink Residents for Env'tl. Pres. and Safety v. FERC*, 762 F.3d 97, 102 (D.C. Cir. 2014) (quoting *Corridor H Alts., Inc. v. Slater*, 166 F.3d 368, 374 (D.C. Cir. 1999)).

alternatives depends on the nature of the proposal and the facts in each case.”³¹ For a “small scale project”³² such as this is, the range of reasonable alternatives is quite limited. Further, agencies have discretion to reject alternatives that are “impractical” or otherwise unlikely to satisfy the objectives for a project.³³

28. The purpose of Impulsora’s project is to provide natural gas to help meet Mexico’s anticipated energy needs and to promote Mexico’s initiative to expand electric generation within Mexico.³⁴ The EA appropriately considered the no action alternative and concluded that while adopting this alternative would eliminate potential impacts on the environment, it would not meet the stated needs of the border-crossing facilities, and therefore was not a reasonable alternative.³⁵ In addition, the EA determined that the impacts of the project as proposed would not be significant.³⁶

29. Impulsora chose the most direct possible route for the border-crossing facilities to be able to transport natural gas to Mexico. While not detailed in the EA, Impulsora considered different configurations for the border-crossing facilities, including moving the pipeline crossing at the Rio Grande River approximately 0.6 miles downstream and adjusting the drilling of the directional bore across the river. Impulsora ultimately concluded, and there is no evidence to the contrary, that the original proposed route and configuration was the most feasible, as none of the alternatives would have reduced the already minimal environmental impacts while accomplishing the objectives of the project.³⁷ Further, given the minimal level of impacts associated with the project as proposed, staff could not identify any alternatives that would “provide a significant environmental advantage” over the proposed project, while meeting the objectives of the

³¹ *CEQ, Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations*, 46 Fed. Reg. 18026, 18027 (1981).

³² EA at 23.

³³ *W. Watersheds Project v. Bureau of Land Mgmt.*, 721 F.3d 1264, 1275-76 (10th Cir. 2013).

³⁴ Impulsora July 1, 2014 Application at 9; EA at 24.

³⁵ *See Wyoming v. U.S. Dep’t. of Agric.*, 661 F.3d 1209, 1244 (10th Cir. 2011).

³⁶ EA at 24.

³⁷ Impulsora July 1, 2014 Application at Resource Report 10, pp. 10-1 – 10-3.

project.³⁸ We conclude that the EA adequately examined alternatives to Impulsora's proposals.

3. Mitigation Measures

30. Needmore contends that the EA's discussion of mitigation measures is inadequate, in that it did not contain mitigation requirements crafted to address the particular impacts of the project, specifically impacts on deer hunting, livestock operations, and water use.

31. We reject Needmore's arguments. Needmore asserts that the Commission's *Upland Erosion Control, Revegetation, and Maintenance Plan* and *Wetland and Waterbody Construction and Mitigation Procedures* (collectively, "procedures") are the only mitigation measures referenced in the EA, and are inadequate to address the project's specific impacts. However, the EA analyzed the procedures and determined that they would be adequate to address the minor, temporary environmental impacts anticipated from the project. Further, Impulsora developed its own mitigation measures, a Directional Drill Contingency Plan and a Spill Prevention, Control and Countermeasure Plan. Commission staff examined these plans and recommended revisions to the Directional Drill Contingency Plan to better contain and clean accidental releases into the Rio Grande River. The Commission also has monitoring and enforcement capabilities to ensure compliance with these measures.³⁹

32. With regard to water use, the EA states that while Impulsora intends to obtain the water necessary for construction and hydrostatic testing of the border-crossing facilities from Needmore, Impulsora will only use Needmore's water if it is able to reach an agreement for purchase.⁴⁰ In the event the parties are not able to reach an agreement for the purchase of water, Impulsora will truck the water in from offsite. While the transportation of water on or offsite is not expected to result in any impacts, we note in the May 14 Order that Impulsora will repair and remediate all roads used on the Needmore Ranch.⁴¹

³⁸ *Id.*

³⁹ A full-time environmental inspector will be present at the construction site throughout construction to ensure compliance with all federal, state, and local permit requirements and mitigation measures. EA at 3.

⁴⁰ EA at 8; May 14 Order, 151 FERC ¶ 61,117 at P 22.

⁴¹ EA at 12; May 14 Order, 151 FERC ¶ 61,117 at P 22.

33. With regard to deer hunting and wildlife operation, Needmore is correct in its assertion that the EA did not consider impacts to deer hunting and wildlife “specifically.” However, Needmore is incorrect in assuming that we reached this conclusion with no support. The EA stated that impacts on the environment would cause a “temporary” decrease in available habitat, limited to the anticipated three month construction schedule and the small construction area.⁴² The EA further noted that “more mobile wildlife such as mammals” may be temporarily displaced, however more severe impacts are not anticipated.⁴³ Therefore, our May 14 Order appropriately determined that impacts to deer hunting and livestock operations would be similarly limited.

34. Needmore’s assertion that the mitigation measures included in the EA are merely a “perfunctory listing,” instead of specific measures tailored to the project’s particular impacts, is without merit. NEPA regulations require an EA to include the “means to mitigate *adverse environmental impacts*.”⁴⁴ The types of specific mitigation measures sought by Needmore are not required where, as here, no adverse impacts have been identified.⁴⁵ The cases Needmore cites to support its assertion involve projects on a much larger scale, and identified significant adverse impacts requiring environmental impact statements.⁴⁶ Here, after considerable analysis, we have determined the proposed border-crossing facilities will have only minor, temporary impacts. Thus, the additional project-specific mitigation measures sought by Needmore, including measures to address water use, deer hunting, and livestock operations, are unnecessary.

III. Facilities Subject to the Jurisdiction of the Commission

35. The May 14 Order described the border-crossing facilities as “one 36-inch-diameter, 4,000-foot-long pipeline and one 12-inch-diameter, 2,500-foot-long pipeline” and this description was repeated in the Presidential Permit issued by that order. However, as noted in the EA and above, only about 2,800 total feet of pipeline, 1,400 feet of 36-inch-diameter pipeline and 1,400 feet of 12-inch-diameter pipeline will be located

⁴² EA at 9.

⁴³ *Id.*

⁴⁴ 40 C.F.R. § 1502.16(h) (2015) (emphasis added).

⁴⁵ *Town of Cave Creek, Arizona v. FAA*, 325 F.3d 320, 333 (D.C. Cir. 2003).

⁴⁶ *Nw. Indian Cemetery Protective Ass’n v. Peterson*, 795 F.2d 688, 697 (9th Cir. 1986); *Neighbors of Cuddy Mountain v. U.S. Forest Serv.*, 137 F.3d 1372, 1380 (9th Cir. 1998).

on the United States side of the international boundary; our authorization to site, construct, operate, and maintain is limited to facilities located within the United States. Accordingly, we are revising our section 3 authorization and issuing a revised Presidential Permit, set forth in Appendix A to this order, to more accurately reflect the scope of facilities subject to our jurisdiction.

36. At a hearing held on November 19, 2015, the Commission, on its own motion, received and made a part of the record in this proceeding all evidence, including the applications, as supplemented, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

- (A) Needmore's request for rehearing is denied.
- (B) The NGA section 3 authorization issued to Impulsora by the May 14 Order to site, construct, operate, and maintain border-crossing facilities is amended as discussed above.
- (C) An amended Presidential Permit is issued to Impulsora to construct, operate, and maintain facilities for the transportation of natural gas between the United States and Mexico.
- (D) Impulsora shall sign and return the testimony and acceptance of all provisions, conditions, and requirements of the Presidential Permit to the Secretary of the Commission (Secretary) within 30 days of the issuance of this order.
- (E) All other requirements of the May 14 Order remain in effect.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A**PERMIT AUTHORIZING IMPULSORA PIPELINE, LLC TO SITE,
CONSTRUCT, AND OPERATE NATURAL GAS FACILITIES AT THE
INTERNATIONAL BOUNDARY BETWEEN THE UNITED STATES AND
MEXICO****FEDERAL ENERGY REGULATORY COMMISSION
Docket No. CP14-513-001**

(Issued November 19, 2015)

Impulsora Pipeline, LLC (Impulsora), a limited liability company organized under the laws of the State of Delaware, filed on July 1, 2014, in Docket No. CP14-513-000, an application pursuant to Executive Order Nos. 10485 and 12038, and the Secretary of Energy's Delegation Order No. 00-004.00A, requesting that the Commission issue an order under section 3 of the Natural Gas Act (NGA) and a Presidential Permit authorizing Impulsora to site, construct, and operate a new border crossing pipeline facility at the international boundary of the United States and Mexico to accommodate the exportation of natural gas between the United States and Mexico.

By letter filed October 7, 2014, the Secretary of Defense, and by letter filed January 13, 2015, the Secretary of State, favorably recommend that this Permit be granted. The Federal Energy Regulatory Commission finds that the issuance of this Permit, allowing the export permission requested by Impulsora, is appropriate and consistent with the public interest.

Pursuant to the provisions of Executive Order Nos. 10485 and 12038, dated September 1, 1953 and February 3, 1978, respectively, the Secretary of Energy's Delegation Order No. 00-004.00A, effective May 16, 2006, and the Commission's regulations, permission is granted to Impulsora (Permittee) to operate and maintain the natural gas 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:

Approximately 1,400 feet of 36-inch-diameter pipeline and approximately 1,400 feet of parallel 12-inch-diameter pipeline in Webb County, Texas, to the international boundary between the United States and Mexico in the vicinity of Colombia, State of Nuevo León, Mexico.

Article 3. The natural gas facilities subject to this Permit, or which may subsequently be included herein by modification or amendment, may be utilized for the transportation of natural gas between the United States and Mexico only in the amount, at the rate, and in the manner authorized under section 3 of the NGA.

Article 4. The operation and maintenance 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 Defense 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 Defense, to remove or alter the same so as to render navigation through such water 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, imported, 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 Permittee 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 replacement.

Article 9. Upon the termination, revocation, or surrender of this Permit, the Commission shall determine which of the authorized facilities shall be removed and which shall remain in place. The facilities authorized shall be removed within such time as the Commission may specify, and at the Permittee's expense. Upon failure of the Permittee to comply with the Commission's direction to remove any authorized facilities, or any portion thereof, 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 its 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.

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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.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Document Content(s)

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