

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

El Paso Natural Gas Company, L.L.C.)

Docket No. CP23-546-000

**MOTION TO WAIVE RECONCILIATION PERIOD OF
EL PASO NATURAL GAS COMPANY, L.L.C.**

Pursuant to Rule 212 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure,¹ El Paso Natural Gas Company, L.L.C. (“EPNG”) hereby files this motion to waive the reconciliation period in response to a generalized comment filed in this docket related to the pipeline loop extension project that EPNG proposed in the prior notice application it filed on September 22, 2023 (“Project”).² Based on EPNG’s review of the docket, nothing was submitted to the Commission during the 60-day comment period that would constitute a “protest” within the meaning of section 157.205(e) of the Commission’s regulations.³ Nevertheless, to the extent the Commission concludes to the contrary and finds a protest was filed in this docket, EPNG respectfully requests waiver of the associated 30-day reconciliation period. Further, EPNG urges the Commission to immediately issue an order denying the protest and authorizing the construction and operation of the Project under EPNG’s Part 157 blanket certificate so that the capacity created by the Project is available during this winter’s heating season.⁴

¹ 18 C.F.R. § 385.212.

² El Paso Natural Gas Company, L.L.C., Request for Prior Notice Authorization Pursuant to Blanket Certificate, Docket No. CP23-546-000 (filed Sept. 22, 2023) (“Request”).

³ 18 C.F.R. § 157.205(e).

⁴ See, e.g., *Natural Gas Pipeline Co. of America LLC*, 171 FERC ¶ 61,157, at P 59 (2020) (“However, when the Commission subsequently finds that the protest should be denied, it is Commission policy to authorize the construction and operation of the delivery facilities under the applicant’s Part 157 blanket certificate, rather than grant redundant case-specific certificate authority.”); see also *Columbia Gas Transmission, LLC*, 148 FERC ¶ 61,138, at P 39 (2014); *Kinder Morgan Gas Transmission LLC*, 133 FERC ¶ 61,044, at P 41 (2010) (citing *Tennessee Gas Pipeline Co.*, 125 FERC ¶ 61,258, at P 20 (2008); *Destin Pipeline Co., L.L.C.*, 83 FERC ¶ 61,308, at 62,268 (1998)).

To reiterate, nothing that has been submitted in this docket constitutes a “protest” within the meaning of section 157.205(e). To qualify as a protest, a pleading must take a certain form that is prescribed by the Commission.⁵ Nothing in this docket (1) states a “protest” to the Request; (2) provides a “detailed statement” of the party’s interest “and the specific reasons and rationale for the objection;” nor (3) states a request that the Commission process the Request “as a separate application.”⁶ Because there has been no “protest...filed in accordance with paragraph (e)” of section 157.205, then there is no basis on which to establish a 30-day reconciliation period,⁷ nor is there any basis on which to process the Request “as an application for section 7 authorization.”⁸ As a result, the Commission should view the Request as a prior notice request for which no protest was filed during the comment period, with the Request becoming effective December 2, 2023, “the day after time expires for filing protests and interventions.”⁹

Should the Commission determine that a protest was filed in this docket during the comment period, EPNG requests the Commission to act promptly to deny the protest. Put simply, there have been no project-specific issues added to the record in this proceeding that would warrant delaying the issuance of an authorization to construct and develop the Project, which is needed promptly in order to alleviate an existing capacity constraint on the EPNG system during the winter

⁵ 18 C.F.R. § 157.205(e)(2).

⁶ *See id.*

⁷ Further, the only party to file comments in this proceeding did not formally intervene in this proceeding (and, accordingly, provided no contact information for how they may be reached), and set forth only generic concerns regarding the development of natural gas infrastructure without stating any objections specific to the Request. As a result, proceeding with a reconciliation period here would serve no purpose, as EPNG has been provided no means by which to reach the party and, even if the party could be reached, there is no reason to believe that the party’s generic concerns could ever be reconciled.

⁸ *Id.* § 157.205(f).

⁹ *Id.* § 157.205(h)(1); *see also El Paso Natural Gas Co., L.L.C.*, Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline, Docket No. CP23-546-000 at 2 (Oct. 2, 2023) (establishing a protest deadline of December 1, 2023).

heating season.¹⁰ To the extent that generic safety concerns have been entered into the record in this docket, such concerns are without merit. Pipelines are largely considered safe,¹¹ and Kinder Morgan, Inc., EPNG's ultimate parent company, is a leader among its industry peers in safely and reliably operating its natural gas infrastructure systems.¹² EPNG confirms its steadfast commitment to operating its natural gas infrastructure system in the safest possible manner, and in accordance with all applicable health and safety regulations.¹³ As a result, prompt Commission authorization will enable EPNG to safely construct the Project and place it in service potentially in time to provide needed service during the winter heating season.

¹⁰ See Request at 3.

¹¹ See *General Pipeline FAQs*, Pipeline and Hazardous Materials Safety Admin., <https://www.phmsa.dot.gov/faqs/general-pipeline-faqs> (last visited Dec. 4, 2023).

¹² See generally *EHS Performance*, Kinder Morgan, Inc., <https://www.kindermorgan.com/Safety-Environment/ESG/EHS-Performance> (last visited Dec. 1, 2023); Kinder Morgan, Inc., *PHMSA Reportable Incident Data* (2023), https://www.kindermorgan.com/WWKM/media/EHS-Performance-Reports/Gas_Pipeline_Incidents.pdf.

¹³ In its Request, EPNG certified that the Project “will be designed, constructed, tested, operated, replaced, and maintained in accordance with” applicable state and federal safety regulations for natural gas transmission pipelines. Request at 6.

CONCLUSION

For the foregoing reasons, should the Commission determine that a protest within the meaning of section 157.205(e) was filed in this proceeding during the 60-day comment period, EPNG respectfully requests that the Commission waive the associated 30-day reconciliation period and that the Commission promptly issue an order authorizing EPNG to proceed with constructing the Project under EPNG's blanket certificate authority as set forth in the Request.

/s/ D. Kirk Morgan II

D. Kirk Morgan II
Boris B. Shkuta
Bracewell LLP
2001 M Street, NW Suite 900
Washington, D.C. 20036
(202) 828-5800
kirk.morgan@bracewell.com
boris.shkuta@bracewell.com

Timothy J. Cronin
Assistant General Counsel
Kinder Morgan, Inc.
Post Office Box 1087
Colorado Springs, CO 80944
(719) 520-4290
tim_cronin@kindermorgan.com

*Counsel for El Paso Natural Gas Company,
L.L.C.*

Dated: December 4, 2023

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010, I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 4th day of December 2023.

/s/ Boris B. Shkuta

Boris B. Shkuta

Bracewell LLP