

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

Sierrita Gas Pipeline LLC) **Docket Nos. CP18-37-000**
) **CP18-38-000**

**REQUEST FOR CLARIFICATION OR, IN THE ALTERNATIVE,
REHEARING OF SIERRITA GAS PIPELINE LLC**

Pursuant to Section 19(a) of the Natural Gas Act (“NGA”)¹ and Rule 713 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”),² Sierrita Gas Pipeline LLC (“Sierrita”) respectfully seeks clarification or, in the alternative, rehearing of certain statements and conclusions of the Commission in the Order Issuing Certificate and Amending Presidential Permit,³ issued in the above referenced dockets on October 1, 2018 (“Certificate Order”). The Certificate Order grants Sierrita’s application for certificate authority to construct and operate a new compressor station and appurtenant facilities (the “Compressor Expansion Project”) and to amend the existing Presidential Permit to increase the maximum daily export capacity of the existing border crossing facility. As described below, Sierrita seeks clarification or, in the alternative, rehearing of a condition in the Commission’s Order requiring that the Compressor Expansion Project be completed and available for service within one year of the Certificate Order.⁴

Sierrita believes the provisions of the Certificate Order relating to the required completion and availability for service date are an inadvertent omission and failure to address the portion of the Certificate Application that described the anticipated in-service date of the

¹ 15 U.S.C. § 717r(a) (2012).

² 18 C.F.R. § 385.713 (2013).

³ *Sierrita Gas Pipeline LLC*, 165 FERC ¶ 61,001 (2018)

⁴ See Ordering Paragraph (B)(1) of the October 1, 2018 Certificate Order.

expansion facilities as April 1, 2020.⁵ Accordingly, Sierrita seeks clarification, or in the alternative rehearing, that the Compressor Expansion Project is not required to be constructed and made available for service until a date that is eighteen months from the date of the Certificate Order.

I.
STATEMENT OF ISSUES AND SPECIFICATION OF ERRORS

Pursuant to Section 713(c) of the Commission's Rules of Practice and Procedure,⁶ Sierrita provides a statement of issues and alleged error in the Certificate Order:

Sierrita seeks clarification or, in the alternative, rehearing that the Compressor Expansion Project is not required to be constructed and made available for service until a date that is eighteen months from the date of the Certificate Order. The ordering provisions of the Certificate Order which conditions the grant of the certificate authority on the completion of construction of the Compressor Expansion Project and the availability of the facilities within one year of the Certificate Order seems to inadvertently overlook the aspects of the Certificate Application relating to the anticipated construction schedule. To the extent the requirement in the Certificate Order of a one year time period for the construction of the facilities is not an inadvertent error that can be corrected by a clarification, Sierrita alleges the Commission erred in the Certificate Order by failing to consider and address the proposed construction schedule and the rationale presented for that schedule. Such a failure, and the refusal to accommodate the requested construction schedule without any explanation or reasoned consideration of the request

⁵ See *Application of Sierrita Gas Pipeline LLC*, Docket No. CP18-37-000, December 21, 2017 at p. 10 "Anticipated Construction Schedule," as well as Environmental Report 1, "Introduction" page 1-1, Environmental Report 2, "Introduction" page 2-1, Environmental Report 3, "Introduction" page 3-1, Environmental Report 4, "Introduction" page 4-1, Environmental Report 5, "Introduction" page 5-1, Environmental Report 6, "Introduction" page 6-1, Environmental Report 7, "Introduction" page 7-1, Environmental Report 8, "Introduction" page 8-1, Environmental Report 9, "Introduction" page 9-1, Environmental Report 10, "Introduction" page 10-1, and Environmental Report 11, "Introduction" page 11-1.

⁶ 18 C.F.R. § 385.713(c).

would constitute arbitrary and capricious decision-making in conflict with the Commission's prior practices. *See, e.g., Ruby Pipeline, L.L.C.*, 144 FERC ¶ 61,118, at P 6 (2013); *United Mun. Distributors Group v. FERC*, 732 F.2d 202, 211 (D.C. Cir. 1984).

II. **BACKGROUND**

On December 21, 2017, Sierrita filed an application, in Docket No. CP18-37-000, pursuant to Section 7(c) of the NGA⁷ and Part 157 of the Commission's regulations⁸ for authorization to construct and operate a new compressor station and appurtenant facilities in Pima County, Arizona (the "Compressor Expansion Project"). Concurrently, in Docket No. CP18-38-000, Sierrita filed an application to amend its existing Presidential Permit and its authorization under NGA Section 3 to increase the maximum daily export capacity at its border crossing facility. Sierrita did not propose any physical modifications of the border crossing facility; instead it simply sought authority to increase the volume of gas that can be exported through the facilities as a result of favorable operating conditions (*i.e.*, either the receipt of gas from its upstream interconnected natural gas pipeline (El Paso Natural Gas Company, L.L.C.), at a higher than anticipated pressure, or a delivery into its downstream interconnected pipeline at the international border at a lower than anticipated pressure), or through the operation of the Compressor Expansion Project.

The Certificate Order granted Sierrita the requested certificate authority and necessary approvals under Sections 7(c) and 3 of the NGA to construct and operate the Compressor Expansion Project and to increase the maximum daily export capacity of the existing border crossing facilities. In the ordering provisions of the Certificate Order, however, the Commission conditioned the grant of the certificate authority, in part, on the Compressor Expansion Project

⁷ 15 U.S.C. §717f(c).

⁸ 18 C.F.R pt. 157.

being constructed and made available for service “within one year of the date of this order.”⁹ The Certificate Order did not otherwise address or discuss the schedule for the construction of the Compressor Expansion Project facilities, even though the Certificate Application specifically included a discussion of the “Anticipated Construction Schedule” and the construction timing was also described in the environmental resource reports. Additionally, the Application for the Amendment of the Presidential Permit discussed the fact that Sierrita was seeking approval of the increased export authority well before the Compressor Expansion Project would be completed. In this filing Sierrita seeks clarification or, in the alternative, rehearing of the condition that the Compressor Expansion Project be completed and ready for service within eighteen months of the Certificate Order.

III.
REQUEST FOR CLARIFICATION
OR, IN THE ALTERNATIVE, REHEARING

Sierrita respectfully requests clarification or, in the alternative, rehearing of the condition in the Certificate Order that the Compression Expansion Project must be completed and ready for service within one year of the date of the Certificate Order. The fact the NGA Section 7(c) application and the NGA Section 3 application both speak to the timing of the construction activities, and make clear that Sierrita is seeking authority to place the compression expansion facilities in service in 2020, and the Certificate Order does not address or specifically discuss the proposed construction schedule, suggests the one-year requirement was not an intentional rejection of Sierrita’s request. If it was not an intentional rejection of Sierrita’s request, but was instead an inadvertent inclusion of wording used in another context, Sierrita requests that the Commission issue a clarification that it did not intend to impose a condition that the

⁹ *Sierrita Gas Pipeline LLC*, 165 FERC ¶ 61,001, at Ordering Paragraph (B)(1).

Compression Expansion Project be completed within one year. If, on the other hand, the Commission did intend to impose that condition, Sierrita requests that the Commission reconsider the condition for the following reasons:

- Sierrita has presented a valid explanation for its request for an immediate amendment of the export quantity under the Presidential Permit (*i.e.*, allowing additional volumes to be exported to Mexico when favorable operating conditions permit, thereby increasing exports and increasing revenues received by natural gas producers in the United States).
- Sierrita has explained the basis for its proposed construction schedule, which involves a start of construction activities in June of 2019 and which results in the completion of the facilities by April of 2020.
- The interrelationship of the increase in the export capacity under the Presidential Permit and the expansion of the capacity of the Sierrita Pipeline associated with the Compression Expansion Project resulted in a need to submit both the application for the Section 7(c) Certificate and the application for the amended Presidential Permit at the same time in order to fully advise the Commission and all other interested parties of the full circumstances surrounding the requested authority.
- The Commission has previously authorized the construction of newly certificated facilities to extend beyond one year from the issuance of the Certificate Order.¹⁰

¹⁰ Most notably is the Order issued by the Commission authorizing the initial construction of the Sierrita Pipeline. In the Order issued by the Commission on June 6, 2014 in Dockets Nos. CP13-73-000 and CP13-74-000, the construction period was established at 18 months. See *Sierrita Gas Pipeline LLC*, 147 FERC ¶ 61,192, at Ordering Paragraph (H)

IV.
CONCLUSION

Wherefore, Sierrita respectfully requests the Commission to grant the requests for clarification or, in the alternative rehearing contained herein.

Respectfully submitted,

By: _____ /s/ _____

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CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2018), I hereby certify that I have this day served the forgoing document on each person designated on the official service list compiled by the Secretary in this proceeding.

Dated the 24th day of October, 2018 in Colorado Springs, Colorado.

/s/

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