

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Transcontinental Gas Pipe Line Corporation Docket No. RP96-359-028

ORDER ON NEGOTIATED RATE AGREEMENTS

(Issued October 26, 2005)

1. On September 30, 2005, Transcontinental Gas Pipe Line Corporation (Transco) filed nineteen negotiated rate service agreements under Rate Schedule FT between Transco and Municipal Gas Authority of Georgia (MGAG). Transco requests that the Commission grant all necessary waivers of its regulations, and issue an order accepting and approving the agreements to be effective October 1, 2005. The Commission will accept the agreements as set forth in the appendix to be effective October 1, 2005. The Commission will accept two of these agreements, subject to refund and subject to conditions, as discussed below.

Background

2. The proffered negotiated rate agreements provide for permanent releases of firm transportation service under Transco's SouthCoast, Sundance, and Momentum Expansion Projects to MGAG from several of Transco's shippers. The firm transportation capacity released to MGAG includes 11,334 Dth per day from SouthCoast, 2,795 Dth per day from Sundance, and 13,508 Dth per day from Momentum. Upon the effective date of the permanent releases, the releasing shippers will no longer be SouthCoast, Sundance, and Momentum customers. The negotiated rate agreements reflect a monthly reservation rate ranging from \$6.0833 per Dth to \$11.2542 per Dth for MGAG, inclusive of all surcharges except for the Gas Research Institute Surcharge, as well as the applicable fuel retention and electric power charges.

3. Transco states in its transmittal letter for the instant filing that the nineteen negotiated rate service agreements are the result of the permanent releases to MGAG, pursuant to section 42.14 of the General Terms and Conditions of Transco's tariff, of previously filed firm transportation agreements. Transco also states that the service agreements conform in all material respects with Transco's *pro forma* service agreement under Rate Schedule FT.

Public Notice, Interventions, and Protests

4. Public notice of Transco's filing was issued on October 6, 2005, with interventions and protests due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2005)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2005)), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. None was filed.

Discussion

5. The Commission accepts and suspends contract no. 9031703, with the City of Elberton, Georgia, as the releasing shipper, and contract no. 9031704, with the City of Sugar Hill, Georgia, as the releasing shipper (Elberton and Sugar Hill Agreements), to be effective October 1, 2005, subject to refund, and subject to the conditions as discussed below.¹ The Commission will accept the remaining seventeen negotiated rate service agreements

6. In its filing, Transco requests that the Commission grant all waivers of its regulations necessary to accept its filing but does not specify which regulations it seeks to have waived. Section 284.8(h)(1) of the Commission's regulations provides that the rate for a capacity release "may not exceed the maximum rate."² From the information contained in the instant filing, it appears that the negotiated rates in the Elberton and Sugar Hill Agreements exceed the applicable maximum rate; therefore, waiver of section 284.8(h)(1) may be necessary in order to accept the Elberton and Sugar Hill Agreements.³ Transco's filing contains no indication how the releases from Elberton and Sugar Hill to MGAG were effectuated. Thus, the Commission is not certain whether (1) Elberton's and Sugar Hill's capacity release postings required the replacement shipper to pay the full negotiated rate Elberton and Sugar Hill were paying or (2) Elberton's and Sugar Hill's capacity release postings only required the replacement shipper to pay up to the maximum reservation rate, and MGAG subsequently entered into an independent agreement with Transco to pay the instant negotiated rate. If the first, then waiver of section 284.8(h)(1) is arguably required. If the second, then waiver would likely not be required.

¹ The Elberton and Sugar Hill Agreements are both under the Momentum Expansion Project.

² 18 C.F.R. § 284.8(h)(1) (2005).

³ See *Tennessee Gas Pipeline Co.*, 113 FERC ¶ 61,036 (2005).

7. Accordingly, the Commission directs that Transco provide a description of the capacity release transactions between Elberton and MGAG, and Sugar Hill and MGAG, including whether the releases were prearranged. Transco is also directed to submit (1) the full text of any postings of Elberton's and Sugar Hill's capacity releases, including any requests for bids and (2) all terms and conditions agreed to by MGAG in order to obtain the releases. Transco must also state whether it believes waiver of section 284.8(h)(1) is necessary and, if it desires such a waiver, it must state the reasons why such a waiver would be justified. Alternatively, if Transco believes a waiver is not necessary, Transco must further support the acceptance of the Elberton and Sugar Hill Agreements on that basis.

8. The Commission, consistent with its negotiated rate policy statement, finds good cause to grant Transco's request for waiver of the 30-day filing requirement in section 154.207 of the Commission's regulations,⁴ and to permit Transco's negotiated rate proposal to go into effect October 1, 2005, as proposed, subject to refund, conditions, and further review.

9. Based upon a review of this filing, the Commission finds that the proposed Elberton and Sugar Hill Agreements have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission accepts the Elberton and Sugar Hill Agreements for filing and suspends their effectiveness for the period set forth below, subject to the conditions of this order.

10. The Commission's policy regarding suspensions is that filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or inconsistent with other statutory standards.⁵ It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.⁶ Such circumstances exist here. Accordingly, the Commission shall accept and suspend the effectiveness of the Elberton and Sugar Hill Agreements for the minimum period, and permit them to become effective October 1, 2005, subject to refund and to compliance with the conditions of this order, and subject to further Commission action.

⁴ 18 C.F.R. § 154.207 (2005).

⁵ See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

⁶ See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

The Commission orders:

(A) Transco's negotiated rate service agreements are hereby accepted, except for the Elberton and Sugar Hill Agreements, as discussed in the body of this order.

(B) The Elberton and Sugar Hill Agreements are hereby accepted and suspended, to be effective October 1, 2005, subject to refund, and subject to Transco filing within 10 days of the date of this order additional information and explanations consistent with the discussion above.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

APPENDIX

Transcontinental Gas Pipe Line Corporation
Docket No. RP96-359-028

Agreements Accepted Effective October 1, 2005

<u>Agreement Numbers</u>	<u>Releasing Shipper</u>	<u>Transportation Contract Quantity</u>	<u>Primary Expiration Date</u>
9031260	City of Covington, GA	1294 Dth per day	November 1, 2015
9031414	City of Lawrenceville, GA	3105 Dth per day	November 1, 2015
9031374	City of Sugar Hill, GA	2277 Dth per day	November 1, 2015
9031413	City of Toccoa, GA	3105 Dth per day	November 1, 2015
9030797	City of Winder, GA	1035 Dth per day	November 1, 2015
9030542	East Central Alabama Gas District	518 Dth per day	November 1, 2015
9031499	City of Commerce, GA	207 Dth per day	May 1, 2017
9031574	City of Covington, GA	776 Dth per day	May 1, 2017
9031575	City of Sugar Hill, GA	518 Dth per day	May 1, 2017
9031576	City of Toccoa, GA	1035 Dth per day	May 1, 2017
9031577	City of Winder, GA	259 Dth per day	May 1, 2017
9031476	City of Covington, GA	518 Dth per day	May 1, 2018
9031477	City of Lawrenceville, GA	4000 Dth per day	May 1, 2018
9031662	City of Lawrenceville, GA	3350 Dth per day	May 1, 2018
9031863	City of Lawrenceville, GA	3000 Dth per day	May 1, 2018
9031497	City of Madison, GA	207 Dth per day	May 1, 2018
9031498	City of Winder, GA	1450 Dth per day	May 1, 2018

Agreements Accepted and Suspended Effective October 1, 2005

<u>Agreement Numbers</u>	<u>Releasing Shipper</u>	<u>Transportation Contract Quantity</u>	<u>Primary Expiration Date</u>
9031703	City of Elberton, GA	207 Dth per day	May 1, 2018
9031704	City of Sugar Hill, GA	776 Dth per day	May 1, 2018