

126 FERC ¶ 61,189
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Acting Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

Transcontinental Gas Pipe Line Corporation

Docket No. CP08-430-000

ORDER ISSUING CERTIFICATE

(Issued February 27, 2009)

1. On June 23, 2008, Transcontinental Gas Pipe Line Corporation (Transco) filed an application under section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations for authorization to install an additional compression unit and related facilities at its existing Eminence Salt Dome Storage Field in Covington County, Mississippi (Eminence facility). The project, known as the Eminence Enhancement Project, will provide subscribing customers with enhanced storage injection rights, allowing more injection and withdrawal cycles per year.
2. For the reasons discussed below, the Commission is issuing the requested authorization. We will, however, reject Transco's proposed cost allocation method and recourse rates and require that Transco allocate all the costs of the project to a single injection reservation charge and submit revised recourse rates.

Background and Proposal

3. Transco is a natural gas company engaged in the transportation of natural gas through a pipeline system extending from sources of supply in several Southern States and offshore Gulf of Mexico to termini in the New York City metropolitan area. Transco's Eminence facility in Covington County, Mississippi has a working gas capacity of 15 Bcf and deliverability of 1.5 Bcf per day. Transco provides open-access contract storage service under Rate Schedule ESS. Currently, the Eminence facility's maximum storage injection capability is 100 MMcf (103,490 Dth) per day, which allows two injection/withdrawal cycles per year.
4. Transco seeks authorization to install one 4,735 horsepower (hp) reciprocating compressor unit and related facilities, including approximately 500 feet of tie-in piping, at the Eminence facility. The new compression facilities will add 44.6 MMcf (46,161 Dth) per day of incremental injection capacity. The additional compression will enable participating Eminence customers to increase their injection and withdrawal cycles from

two to six cycles per year. The project will not create any additional storage capacity or withdrawal capability.

5. Transco held a non-binding open season for the Eminence Enhancement Project from March 21 to May 23, 2007. Following the open season, Transco executed binding precedent agreements for 100 percent of the incremental storage injection rights with nine customers,¹ all of which are existing customers under Rate Schedule ESS.² The precedent agreements require the project customers to execute amendments to their existing service agreements to increase the maximum storage injection quantities under the agreements and to extend the primary term of the agreements by 15 to 20 years from the in-service date of the project. The Eminence Enhancement Project will increase the project customers' aggregate storage injection rights by 46,161 Dth per day.

6. Transco avers that the proposed facilities will have no effect on the existing operational capabilities and conditions at the Eminence facility, and that there will be no adverse impact on service Transco provides to Eminence customers or to its other customers. The new facilities will be installed at Transco's existing Compressor Station 77 in a new compressor building.

Public Notice and Interventions

7. Notice of the application was published in the *Federal Register* on July 8, 2008 (73 Fed. Reg. 39,011). Alabama Gas Corporation; Atlanta Gas Light Company; Carolina Power & Light Company, doing business as Progress Energy Carolinas, Inc.; National Grid Gas Delivery Companies,³ National Fuel Gas Distribution Corporation, North

¹ These customers are: Alabama Gas Corporation; Atlanta Gas Light Company; Delmarva Power & Light Company; Pivotal Utility Holdings, Inc. doing business as Elizabethtown Gas; Public Service Company of North Carolina, Incorporated; South Carolina Electric & Gas Company; Virginia Natural Gas, Inc.; Virginia Power Energy Marketing, Inc.; and Washington Gas Light Company.

² In the aggregate, these nine customers now hold storage capacity of 3,057,743 Dth in the Eminence facility and storage injection rights of 20,388 Dth a day.

³ The members of this group include: Brooklyn Union Gas Company, doing business as National Grid NY; KeySpan Gas East Corporation, doing business as National Grid; Boston Gas Company, Colonial Gas Company, and Essex Gas Company, collectively doing business as National Grid; EnergyNorth Natural Gas Inc., doing business as National Grid NH; Niagara Mohawk Power Corporation, doing business as National Grid; and the Narragansett Electric Company, doing business as National Grid. These entities are subsidiaries of National Grid USA.

Carolina Utilities Commission; PSEG Energy Resources & Trade LLC; Washington Gas Light Company; and South Carolina Electric & Gas Company and Public Service Company of North Carolina, Inc. (jointly), filed timely, unopposed notices of intervention or motions to intervene. Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure.⁴

8. The Patriots Energy Group, the Municipal Gas Authority of Georgia, and the Transco Municipal Group (jointly), and Piedmont Natural Gas Company, Inc. (individually) filed motions to intervene out-of-time. Each has shown an interest in this proceeding, and their participation will not delay the proceeding or prejudice the rights of any other party. Accordingly, for good cause shown, we will permit their late intervention.⁵

Discussion

9. Because the proposed facilities will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, the construction and operation of the facilities is subject to the requirements of section 7(c) of the NGA.

Public Convenience and Necessity

10. The Certificate Policy Statement provides guidance as to how the Commission will evaluate proposals for certificating new construction.⁶ The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

11. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on

⁴ 18 C.F.R. § 385.214 (2008).

⁵ 18 C.F.R. § 385.214(d) (2008).

⁶*Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *clarified*, 90 FERC ¶ 61,128, *further clarified*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will the Commission then proceed to complete the environmental analysis where other interests are considered.

12. The threshold requirement is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. Under Transco's proposal, customers subscribing to the new enhanced injection service will pay incremental rates that will fully cover the cost of the project. The rates of customers not subscribing to this service will remain the same. Therefore, the Commission finds that Transco's proposal meets the threshold no-subsidy test of the Certificate Policy Statement.

13. The proposed project will not adversely affect Transco's existing customers or other pipelines and their customers because the new service will not displace any existing service provided by others. Transco has submitted data showing that the proposed facilities and the new enhanced service for the subscribing customers will not degrade service currently provided to Transco's other non-subscribing customers.

14. Likewise, the Commission does not expect adverse economic impacts on landowners. Transco has designed the Eminence Enhancement Project so that all construction activities associated with the compressor unit will take place adjacent to the existing compressor station within the storage field. There will be no additional land required for the compressor unit or related facilities, and no extra work spaces or access roads will be constructed.

15. Transco has entered into long-term precedent agreements for 100 percent of the design capacity of the project, demonstrating market support for the Eminence Enhancement Project. In addition, Transco's proposal to increase the number of injection and withdrawal cycles from two to six per year for subscribing customers will provide those customers with greater operating flexibility and more effective use of their storage service. For these reasons, the Commission finds that the Transco's proposed project will provide benefits to the market without any identifiable adverse impacts on existing customers, shippers, other pipelines, landowners, or communities. Therefore, consistent with the Certificate Policy Statement and section 7(c) of the NGA, the Commission concludes that approval of the Eminence Enhancement Project is required by the public convenience and necessity, subject to the conditions discussed below.

Rates

16. Transco estimates that the Eminence Enhancement Project will cost approximately \$13 million. The cost of these facilities will be financed initially through short-term loans and funds on hand. Transco will undertake permanent financing at a later date as part of Transco's overall, long-term financing program.

17. Transco proposes (1) a rate base of \$13,121,483 for the Eminence Enhancement Project, (2) an annual cost of service of \$2,862,771, using a depreciation rate of 2.10 percent and a pre-tax return of 15.34 percent,⁷ (3) an incremental recourse surcharge to the existing Rate Schedule ESS rates for the right to the enhanced injection capacity, and (4) to allocate 50 percent of the fixed costs to deliverability and 50 percent to capacity. The resulting proposed rates are \$0.01282 per Dth per day for the Demand Charge, and \$0.00128 per Dth per day for the Storage Capacity Charge. All other Rate Schedule ESS charges, including the currently effective ESS Quantity Injected Charge and Quantity Withdrawal Charge and all surcharges including fuel, if applicable, will apply.

18. Transco states that it may charge negotiated rates for these services. If it does so, Transco states that at least one day prior to the in-service date of the Eminence Enhancement Project it will file the amended Rate Schedule ESS service agreements reflecting any negotiated rates.

Commission Analysis

19. Transco states that it designed its incremental storage rates consistent with the *Equitable* method of storage rate design, which assigns fixed costs equally between deliverability and capacity.⁸ The Commission developed the *Equitable* method to address traditional base-load storage function costs and services, in particular, the appropriate ratio to apply to deliverability and capacity for recovering fixed storage costs. The Commission has nevertheless recognized that reasons may exist for making modifications to the *Equitable* method.⁹ Here, the Commission finds that the *Equitable*

⁷ The 2.10 depreciation rate (including negative salvage) is the storage depreciation rate included in Transco's approved settlement in Docket No. RP06-569-000, *et al.*; and the 15.34 percent pre-tax return is based on the pre-tax return underlying the design of Transco's approved settlement rates in Docket No. RP01-245-000, *et al.*

⁸ *Equitable Gas Company*, 36 FERC ¶ 61,147, at 61,367 (1986) (*Equitable*); as more fully explained in relevant part in *Consolidated Gas Transmission Corporation*, 47 FERC ¶ 61,171, at 61,561-567 (1989).

⁹ *See, e.g., Cove Point LNG Limited Partnership*, 68 FERC ¶ 61,377, at 62,515

method of cost classification and cost recovery is not appropriate for the injection-only service proposed by Transco.

20. Transco states that the sole purpose of the proposed facilities and service is to increase injection capacity, and that is what Transco marketed and sold. The Eminence facility's total deliverability and capacity will not change as a result of the proposal. The proposed enhanced injection service is a separate contract item, and there does not need to be a direct relationship between contract injection levels and contract deliverability or capacity levels. Moreover, as a firm service, injection quantities may be separately posted for capacity release. Such releases could lead to a further divergence of contract injection quantities from contract deliverability and capacity quantities.

21. While Transco does propose to price these incremental injection quantities separately, it does so using a cost classification method that employs deliverability and capacity allocation factors that are not directly related to the injection quantities. In order to better match the stated purpose of these facilities and the manner in which the injection service was marketed and contracted, the Commission will require Transco to allocate 100 percent of the incremental fixed injection costs to a single injection reservation charge and to use the injection contract quantities as the billing determinants.¹⁰ This will eliminate the possible misallocation of costs among customers because of the use of unrelated allocation factors and will better facilitate the pricing of capacity release quantities. The Commission will require Transco to file, not less than 30 days nor more than 60 days, prior to the commencement of the new service, tariff sheets reflecting the revised recourse rates for its enhanced injection service.

22. Transco entered into precedent agreements with the project customers that may result in negotiated rates when actual Rate Schedule ESS contracts are signed. Consistent with the Alternative Rate Policy Statement,¹¹ and the decision in *NorAm Gas*

(1994) (uses that vary from base load); and *Saltville Gas Storage Co. L.L.C.*, 109 FERC ¶ 61,200, at P 17-18 (2004) (*Saltville*) (distinct injection service feature). In the *Saltville* proceeding, fixed costs were classified to reflect three services: deliverability, capacity, and injection.

¹⁰ This design is similar to that approved in *Saltville*. The rate calculation is as follows: $\$2,862,771 / (66,549 \text{ Dth/day} \times 365 \text{ days}) = \0.11786 Dth/day .

¹¹ *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines; Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076 (1996), *order granting clarification*, 74 FERC ¶ 61,194, *reh'g and clarification denied*, 75 FERC ¶ 61,024 (1996), *reh'g denied*, 75 FERC ¶ 61,066 (1996), *petitions for review denied and dismissed*, *Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d 918 (D.C. Cir. 1998), *criteria modified*, *Rate Regulation of Certain Natural Gas* (continued)

Transmission Company,¹² the Commission directs Transco to file its negotiated rate contracts, or numbered tariff sheets, not less than 30 days nor more than 60 days, prior to the commencement of service, stating for each shipper the negotiated rate, the applicable gas volume to be transported, and an affirmation that the affected service agreements do not deviate in any material respect from the form of service agreement in Transco's pro forma tariff. Transco must also disclose any other agreement, understanding, negotiation, or consideration associated with the negotiated agreements. Finally, Transco must also maintain separate and identifiable accounts for volumes transported, billing determinants, rate components, surcharges, and revenues associated with its negotiated rates in sufficient detail so that they can be identified in Statements G, I, and J in any future NGA section 4 or 5 rate case.

Engineering

23. The Commission's staff conducted an analysis of the engineering information submitted by Transco. Based on that analysis, the Commission finds that the proposed compression facilities should enable Transco to provide the proposed enhanced injection service.

24. Typically storage fields operate their injection cycles with injection rates that decrease as the inventory in the storage reservoir increases. Transco, however, has designed its use of the proposed compression at the Eminence facility so that the injection rate will be constant for the entire capacity of the field throughout the injection cycle. Accordingly, the maximum injection rate when the storage reservoir is empty is equal to the maximum injection rate at full capacity. This will allow Transco to offer the increased injection capacity to the Eminence Enhancement Project customers without affecting the injection capacity options of the other storage customers.

Environment

25. The Commission's staff prepared an environmental assessment (EA) for Transco's proposal that was issued on October 31, 2008. The EA addresses geology, mineral resources, soils, water resources, vegetation, wildlife, wetlands, federally listed threatened and endangered species, land use, cultural resources, air quality, noise quality, and alternatives.

Storage Facilities, Order No. 678, FERC Stats. & Regs. ¶ 31,220 (2006), *order on clarification and reh'g*, Order No. 678-A, 117 FERC ¶ 61,190 (2006) (Alternative Rate Policy Statement).

¹² 77 FERC ¶ 61,011 (1996).

26. The Commission received comments from four landowners with concerns about the Eminence Enhancement Project. In their comments, three landowners express concern about additional noise and vibration from the facility as a result of this project. The EA explains that while total noise levels would increase near the compressor station, those noise levels would not be noticeable at nearby residences. Nevertheless, in the environmental conditions to this order, the Commission will require that Transco verify that noise from the compressor station does not exceed the standard level permitted by Commission regulations at any nearby residences. The Commission's regulations also require that the facility modifications must not result in any perceptible increase in vibration at those residences.

27. Another landowner, who believes that the project involves expansion of the storage field, suggests that the Commission should add a buffer zone around the storage site. A buffer zone is a protective area beyond the estimated reservoir boundaries to insure the integrity of the storage formation. A buffer zone is not necessary in all instances and not all storage facilities authorized by the Commission include a designated buffer zone. The Eminence facility has operated for many years without a specifically designated buffer zone, and no one has raised a question regarding the present or future integrity of the storage field. As the Commission explained in the EA and in this order, there will be no change in the storage capacity or the size of the storage field. Thus, the Commission will not require a buffer zone.

28. Based on the discussion in the EA, the Commission concludes that if constructed in accordance with Transco's application, approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

29. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction of facilities approved by this Commission.¹³

30. The Commission, on its own motion, received and made a part of the record in this proceeding all evidence, including the application, and exhibits thereto, submitted in support of the authorization sought herein, and upon consideration of the record,

¹³See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

The Commission orders:

(A) A certificate of public convenience and necessity is issued to Transco to construct and operate the Eminence Enhancement Project, as described more fully in the order and application.

(B) The certificate authority granted in Ordering Paragraph (A) shall be conditioned on the following:

- (1) Transco's completing the authorized construction of the proposed facilities and making them available for service within one year of the issuance of this order pursuant to section 157.20(b) of the Commission's regulations.
- (2) Transco's compliance with all applicable Commission regulations under the NGA including, but not limited to, Parts 154 and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the regulations.
- (3) Transco's compliance with the environmental conditions in the appendix to this order.

(C) Transco shall execute firm service agreements reflecting levels and terms of service equivalent to those represented in its precedent agreements prior to commencing construction of the Eminence Enhancement Project.

(D) Transco shall notify the Commission's environmental staff by telephone, e-mail, or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Transco. Transco shall file written confirmation of such notification with the Secretary of the Commission (Secretary) within 24 hours.

(E) Transco shall file, not less than 30 days or more than 60 days prior to commencement of the new service authorized here, tariff sheets reflecting the revised recourse rates, as set forth in the body of this order.

(F) Transco must file, not less than 30 days nor more than 60 days prior to the commencement of service, any negotiated rate contracts with customers for services using the Eminence Enhancement Project facilities.

By the Commission. Commissioner Kelliher is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

APPENDIX
ENVIRONMENTAL CONDITIONS

As recommended in the EA, this authorization contains the following conditions:

1. Transco shall follow the construction procedures and mitigation measures described in its application and supplements and as identified in the EA, unless modified by the order. Transco must:
 - a. request any modifications to these procedures, measures, or conditions in a filing with the Secretary;
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the OEP before using that modification.
2. The Director of OEP has delegated authority to take whatever steps are necessary to insure the protection of all environmental resources during construction and operation of the project. This authority would allow:
 - a. the modification of conditions of the order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop-work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. Prior to construction, Transco shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel would be informed of the environmental inspector's authority and have been or would be trained on the implementation of the environmental mitigation measures appropriate to their jobs before becoming involved with construction and restoration activities.
4. Transco must receive written authorization from the Director of OEP **before commencing service** from the project. Such authorization will only be granted following a determination that rehabilitation and restoration of the right-of-way and other disturbed areas is proceeding satisfactorily.
5. Transco shall file a Compressor Noise Survey with the Secretary **no later than 60 days** after placing the authorized unit at Compressor Station 77 in service. If the noise attributable to the operation of the modified unit at Compressor Station 77

exceeds 55 dBA Ldn at any nearby NSA, Transco must install additional noise controls to meet that level **within one year** of the in-service date. Transco should confirm compliance with this requirement by filing a second noise survey with the Secretary **no later than 60 days** after it installs the additional noise controls.