

132 FERC ¶ 61,052  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller, and  
John R. Norris.

Transwestern Pipeline Company, LLC

Docket Nos. RP10-650-001  
RP10-853-000  
(not  
consolidated)

ORDER ON REHEARING AND ACCEPTING TARIFF SHEETS

(Issued July 16, 2010)

1. On June 17, 2010, Transwestern Pipeline Company, LLC (Transwestern) filed a request for rehearing of a May 27, 2010 order, which accepted four operational balancing agreements (OBA), subject to Transwestern's filing revised OBAs that include the penalty provision contained in Transwestern's *pro forma* OBA.<sup>1</sup> Also on June 17, 2010, Transwestern filed revised tariff sheets<sup>2</sup> that: (1) revise several provisions in section 15 of the General Terms and Conditions (GT&C) of its tariff, relating to OBAs; and (2) make several minor revisions to its *pro forma* OBA. Transwestern requests a July 18, 2010 effective date for the tendered tariff sheets. This order grants rehearing of the May 27 Order, and accepts the tariff sheets listed in the Appendix, to be effective July 18, 2010.

**I. Background**

2. The May 27 Order found that the four OBAs<sup>3</sup> filed by Transwestern contained impermissible material deviations from Transwestern's *pro forma* OBA because they

---

<sup>1</sup> *Transwestern Pipeline Co., LLC*, 131 FERC ¶ 61,198 (2010) (May 27 Order).

<sup>2</sup> See Appendix for a list of tariff sheets.

<sup>3</sup> The four agreements are; (1) Mojave Pipeline Company OBA Agreement, dated December 1, 2001, Contract No. 27755 (Mojave OBA); (2) Natural Gas Pipeline Company of America OBA Agreement, dated April 1, 2002, Contract No. 27854; (3) Natural Gas Pipeline Company of America OBA Agreement, dated April 1, 2002,

(continued...)

lacked a penalty provision that is included in the *pro forma* agreement.<sup>4</sup> The May 27 Order conditionally accepted the four OBAs, subject to Transwestern's revising the agreements to include the *pro forma* penalty provision.<sup>5</sup>

3. Additionally, because Transwestern did not file a redline version of the Mojave OBA, as required by section 154.201(a) of the Commission's regulations,<sup>6</sup> the Commission directed Transwestern to file a redline version of the Mojave OBA.<sup>7</sup>

4. Subsequently, on June 17, 2010, Transwestern filed a motion requesting an extension of time to comply with the requirements of the May 27 Order. On June 24, 2010, the Commission granted Transwestern an extension of time to and including July 28, 2010, to comply with the May 27 Order.

## II. Details of Filings

### A. Request for Reconsideration or, in the Alternative, Rehearing (Docket No. RP10-650-001)

5. In its request for rehearing or reconsideration, Transwestern argues that because the OBAs at issue are with interstate pipelines, not customers or shippers, the May 27 Order erred in finding that the four OBAs must include the *pro forma* penalty provision.

6. Transwestern explains that its tariff expressly permits OBAs with interstate or intrastate pipelines to be in a form different from the *pro forma* OBA. Specifically, Transwestern points to section 15.1 of its GT&C, which states:

All Operators of gas transportation, processing, treating, production, or other facilities which either deliver gas into or receive gas from Transporter's system . . . must execute an [OBA] in the form contained in this Tariff, provided, however, *that Operators at interconnections with interstate*

---

Contract No. 27855; and (4) Questar Southern Trails Pipeline Company OBA Agreement, dated May 24, 2002, Contract No. 100043.

<sup>4</sup> May 27 Order, 131 FERC ¶ 61,198 at P 6.

<sup>5</sup> *Id.* P 10.

<sup>6</sup> 18 C.F.R. § 154.201(a) (2010).

<sup>7</sup> May 27 Order, 131 FERC ¶ 61,198 at P 11.

*or intrastate pipelines may execute an OBA in another mutually agreeable form.*<sup>8</sup>

In light of this tariff provision expressly allowing it to enter OBAs with interstate pipelines, Transwestern argues that there is no limitation on the extent to which an OBA with an interstate pipeline may vary from the *pro forma* OBA.<sup>9</sup> Transwestern therefore contends that the May 27 Order erred by not acknowledging its authority to enter into OBAs with interstate pipelines in a “mutually agreeable form.”

7. Transwestern asserts that its authority to execute OBAs with interstate and intrastate pipelines in a form different from the *pro forma* OBA, is consistent with Commission policy which treats OBAs differently from transportation service agreements. For example, Transwestern states that the Commission does not require the filing of OBAs and that while pipeline tariffs must include *pro forma* transportation service agreements, they do not need to include *pro forma* OBAs.<sup>10</sup>

8. Finally, Transwestern also argues that the Commission should grant rehearing of the May 27 Order’s requirement that Transwestern file a redline version of the Mojave OBA. Transwestern points to its original filing in this proceeding, in which it stated that the extensive nature of the supplemental provisions in the Mojave OBA makes providing a redline version impractical.<sup>11</sup> Transwestern asserts that the wholesale redlining required by the May 27 Order would not serve the purpose of highlighting differences between an executed agreement and a *pro forma* agreement.

9. On June 25, 2010, Mojave Pipeline Company (Mojave) filed a motion to support Transwestern’s request for rehearing. Mojave contends that the relationship between interconnected pipelines is different from the relationship between a pipeline and its shippers, such that there is really no risk of undue discrimination if an OBA for an

---

<sup>8</sup> Transwestern, June 17, 2010 Rehearing Request at 7 (quoting section 15.1 of the Transwestern GT&C) (emphasis added).

<sup>9</sup> Transwestern explains that its only purpose in filing the agreements was to comply with section 15.5 of its GT&C, which requires the filing of any supplemental provisions negotiated and made a part of an OBA. *Id.* at 8 (citing section 15.5 of the Transwestern GT&C).

<sup>10</sup> *Id.* at 10-11 (citing *Columbia Gulf Transmission Co.*, 131 FERC ¶ 61,117 (2010)).

<sup>11</sup> *Id.* at 14-15 (citing Transwestern, April 27, 2010 Transmittal Letter, Docket No. RP10-650-000, at 2).

interconnected pipeline is different in form than the OBA held by a shipper or point operator. Mojave also makes a number of similar arguments to those made by Transwestern in support of Transwestern's rehearing request.

**B. Revisions to OBA Tariff Provisions (Docket No. RP10-853-000)**

10. Transwestern proposes to revise section 15.1 of its GT&C to permit Transwestern and an operator of any interconnecting facilities to mutually agree to an OBA consistent with the principles of the North American Energy Standards Board (NAESB) Model OBA. Transwestern also proposes to revise GT&C section 15.5 to remove the requirements that Transwestern file executed OBAs with the Commission and post executed OBAs on Transwestern's website for a period of seven days after an OBA becomes effective. Transwestern states that it will make any executed OBAs available upon request in accordance with Commission policy.

11. Transwestern also proposes to revise the *pro forma* OBA to add the word "Default" and delete the word "Service" in the title of the OBA to clarify that an OBA is not a "service agreement" that Transwestern enters into with a shipper for service from the pipeline. Transwestern states that it is not proposing to remove the *pro forma* OBA from its tariff at this time since the *pro forma* OBA will apply as a default agreement unless Transwestern and an interconnecting operator mutually agree on a different form OBA.

12. Transwestern states that Commission policy permits interstate pipelines to negotiate mutually acceptable OBA provisions with interconnecting operators on a nondiscriminatory basis, subject to the requirement that the pipeline make its OBA available as required by Commission policy. Transwestern explains that it is proposing the above-mentioned tariff revisions to reflect a consistent approach between Commission requirements applicable to Transwestern and other interstate pipelines with respect to OBAs.

13. Notice of Transwestern's filing was issued on June 21, 2010. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2010). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2010), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

**III. Discussion**

14. Upon consideration of Transwestern's arguments, the Commission finds they have merit, and therefore grants rehearing of the May 27 Order, and rescinds the directive that Transwestern must file revised versions of the four OBAs at issue in Docket

No. RP10-650-000. Furthermore, the Commission will not require Transwestern to file a redlined version of the Mojave OBA. Additionally, the Commission accepts the revised tariff sheets filed by Transwestern in Docket No. RP10-853-000 to implement the NAESB Model OBA, to be effective July 18, 2010.

15. Specifically, the May 27 Order did not take account of language in section 15.1 of Transwestern's GT&C that expressly permits Transwestern to enter into OBAs with operators at interconnections with interstate or intrastate pipelines in "mutually agreeable form." While section 15.1 requires point operators to execute the *pro forma* OBA contained in Transwestern's tariff, it carves out an exception for operators at interconnections with interstate or intrastate pipelines. This latter class of point operators is permitted to enter into OBAs in "another mutually agreeable form." Because the four OBAs at issue in the May 27 Order were between Transwestern and interstate pipelines, this exception applies. Similarly, the May 27 Order's requirement for Transwestern to file a redlined Mojave OBA would serve no purpose, inasmuch as a comparison with the *pro forma* OBA is unnecessary.

16. Finally, the Commission accepts the revised tariff sheets filed by Transwestern in Docket No. RP10-853-000, to be effective July 18, 2010, as consistent with Commission policy and the NAESB Model framework for OBA provisions.

The Commission orders:

(A) Transwestern's request for rehearing of the May 27 Order is granted, as discussed in the body of this order.

(B) The directive in the May 27 Order requiring a compliance filing is rescinded.

(C) Transwestern's revised tariff sheets listed in the Appendix are accepted, to be effective July 18, 2010.

By the Commission. Commissioner LaFleur is not participating.

( S E A L )

Kimberly D. Bose,  
Secretary.

APPENDIX

**Transwestern Pipeline Company, LLC**

FERC Gas Tariff  
Third Revised Volume No. 1  
Tariff Sheets Accepted Effective July 18, 2010

Seventh Revised Sheet No. 1  
Second Revised Sheet No. 123  
Third Revised Sheet No. 225  
Third Revised Sheet No. 226  
Third Revised Sheet No. 227  
Second Revised Sheet No. 228  
Third Revised Sheet No. 229  
Second Revised Sheet No. 230  
Second Revised Sheet No. 231  
Fourth Revised Sheet No. 232  
Third Revised Sheet No. 233