

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Transcontinental Gas Pipe Line Corporation

Docket No. RP07-328-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS AND GRANTING
WAIVER SUBJECT TO CONDITIONS

(Issued March 29, 2007)

1. On March 1, 2007, Transcontinental Gas Pipe Line Corporation (Transco) filed revised tariff sheets¹ pursuant to section 38 of the General Terms and Conditions (GT&C) of its tariff to reflect the redetermination of its fuel retention percentages applicable to transportation and storage rate schedules. Transco also request waiver of its tariff to include certain prior period costs in its filing. As discussed below, the Commission accepts and suspends the instant tariff sheets subject to conditions, to be effective April 1, 2007. The Commission also conditionally grants Transco's requested waiver.

Details of the Filing

2. Transco states that the instant filing is submitted pursuant to section 38 of its GT&C which requires it to file, to be effective each April 1, a redetermination of its fuel retention percentage applicable to transportation and storage rate schedules. Transco states that the instant revised fuel retention percentages are based on Transco's estimate of gas required for operation (GRO) for the upcoming annual period (April 2007 through March 2008). In addition, the fuel retention percentages reflect the balance accumulated in the Deferred GRO Account representing over-and-underrecoveries during the period February 1, 2006 through January 31, 2007 (Deferral Period).

¹ Third Revised Volume No. 1, Twenty-Sixth Revised Sheet No. 29, Twenty-First Revised Sheet No. 44, Fourteenth Revised Sheet No. 61 and Tenth Revised Sheet No. 61A.

3. Transco states that it has also included in its filing prior period adjustments which correct the calculation of gas lost and unaccounted for and fuel retention volumes for the production months April 2003 through January 2005. Transco points out that section 38.7 of the GT&C of its tariff generally prohibits prior period adjustments for periods more than twenty-four months before February 2006, the beginning of the Deferred Period, used for calculating over-and-under recoveries in this filing. Specifically section 38.7 provides:

Except as provided below, prior period adjustments included in the Actual GRO quantities shall be limited to prior period adjustments that relate to the twenty-four month period immediately prior to the beginning of the Deferred Period. The twenty-four month limitation on prior period adjustments shall apply to adjustments in favor of Buyers and those in favor of Seller; provided that the twenty-four month limitation associated with adjustments in favor of Buyer shall not apply to adjustments resulting from Seller's negligence or willful misconduct.

4. Transco requests that the Commission grant waiver of its tariff in order to include the entirety of this adjustment in the determination of the current fuel retention percentages, and states such waiver is necessary because the instant prior period adjustment is comprised of costs incurred before the 24 month period referred to in its tariff. Transco asserts that the net effect of this adjustment, recorded in December 2006, is to reduce the volumes Transco proposed to retain from shippers by 1,763,501 Dts.² Transco also states this proposed prior period adjustment is not the result of its negligence or willful misconduct, but that it arose in connection with the implementation of Transco's 1Line service delivery system. Transco points out that the beginning of the adjustment period coincides with Transco's implementation of its 1LineTM service delivery system on April 1, 2003. Transco asserts that difficulties in the compilation and dissemination of data arose in the implementation of its new information system and that it was not able to finally identify and record the adjustment until December 2006. Transco asserts that given these unique circumstances, good cause exists for the Commission to grant its requested waiver.

Public Notice of Filing

5. Public notice of the filing was issued on March 6, 2007. Interventions and protests were due as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2006)), all timely filed motions to intervene and any motion to intervene out-of-time filed before the issuance date of this order are granted.

² Appendix B, Part 1, Page 2, line 26 details the adjustments to the Deferred GRO Account recorded in December 2006.

Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties.

Protest and Comments

Eminence Storage Loss

6. FPL Energy, LLC (FPL Energy), asserts Transco's calculations of GRO volumes for the deferred period February 2006 through January 2007 include lost gas of 2,374,951 dth at the Eminence Storage Field. FPL Energy asserts that Transco does not provide an explanation of the nature of the loss. FPL Energy contends that Transco has failed to justify the inclusion of the Eminence gas loss in the true-up of past underrecoveries. FPL Energy argues that the Commission should either reject Transco's request to recover the loss or direct Transco to provide an explanation of the nature of this loss and why it is appropriate to include in the system GRO quantities for the past period.

7. FPL Energy states the effect of allowing Transco to include the approximate 2.4 Bcf loss in the true-up of past underrecoveries would be to allow its recovery from all transportation customers as a group. FPL Energy states that this is unjustified, because approximately 60 percent of the capacity available at Eminence is dedicated to Emergency Eminence Storage Service, and not all of the transportation services on Transco are eligible to receive Emergency Eminence Storage Service. FPL Energy argues that some of the Eminence loss should be allocated to the subset of services and customers eligible for Emergency Eminence Storage Service and away from the transportation customer class as a whole.

8. FPL Energy also states that Transco's filing fails to recognize the non-recurring nature of its claimed loss. FPL Energy argues that Transco's adjustments to the GRO for the February 2006 through January 2007 deferred period make it clear that Transco has included the approximate 2.4 Bcf Eminence loss in the prospective fuel quantity as a recurring item which FPL Energy asserts is an unsupportable claim.

9. FPL Energy argues that the Commission should reject the inclusion of the subject Eminence losses and direct Transco to remove those costs and recalculate the prospective retention factor or direct Transco to properly allocate among the Emergency Eminence Storage Service shippers and the system transportation customers any portion of the Eminence loss deemed to be recurring and properly recoverable.

10. Baltimore Gas and Electric Company (BGE) and Constellation New Energy-Gas Division, LLC (CNE-Gas) also point out that Transco has allocated the Eminence Storage losses to all transportation customers even though emergency storage service is only provided to a select class of customers. BGE claims Transco has developed its fuel

tracker in such a way so as to require BGE, CNE-Gas and other transportation customers to subsidize the cost of Eminence Emergency Storage Service that they do not receive.

11. BGE also joins FPL Energy in objecting to Transco's inclusion of the subject Eminence losses as a recurring item. BGE states that Transco's filing reflects an unjust and unreasonable double counting of Lost and Unaccounted for (LAUF) volumes that should be confined to a recovery from last year's actual, one-time experience. The Municipal Gas Authority of Georgia (the Gas Authority) and The Transco Municipal Group (TMG) argue that Transco does not explain this adjustment for inclusion of the Eminence Storage losses in the filing or give any indication concerning when the fuel losses occurred. TMG also states that it is unclear whether the lost gas at Eminence is a one-time adjustment or whether it is part of a recurring problem, and whether the proposed fuel retention rate implicitly or expressly incorporates expected future storage losses.

Prior-Period Adjustment

12. TMG states that Transco intends to include 1,282,878 Dts of the total 1,763,501 Dt prior-period adjustment quantity which relates to activity that falls outside the twenty-four month period preceding the Deferral Period. TMG asserts that under Transco's tariff an adjustment that occurs before the twenty-four month period established for permissible prior-period adjustments can be implemented only if (i) it is in favor of Transco's customers, and (ii) it results from Transco's negligence or willful misconduct.

13. TMG states that the adjustment quantities for which Transco seeks waiver to include both a negative 1,586,812 Dt adjustment favoring shippers and a positive 348,699 Dt adjustment favoring Transco. TMG supports the prior-period adjustments for quantities in favor of Transco's customer during the April 2003 through January 2004 period so that corrected fuel quantities will be used to calculate current fuel requirement percentages (FRPs). TMG states that this correction is essential to avoid inappropriately collecting fuel from customers above the actual level of fuel used by Transco which was not accounted for on a timely basis due to Transco's acts or omissions.

14. TMG also asserts that Transco's explanation for its failure to accurately record and calculate its fuel retention percentages is insufficient and that without further justification from Transco, the Commission could find that Transco's failure to record the prior-period adjustment within the twenty-four month period preceding the Deferred Period is the result of action or inaction that reasonably could have been avoided, and the failure to timely account for fuel quantities was the result of negligence. Therefore, TMG asserts that the adjustments that are in Transco's customers' favor (*i.e.*, a downward adjustment of 1,586,812 Dts) would be permitted under the terms of section 38.7 of the General Terms & Conditions (GT&C). TMG argues that to the extent the Commission determines that the failure to properly account for fuel on a timely basis is sufficiently justified, it should waive the tariff limitations, as Transco requests, to ensure that

customers are not punished for Transco's inability to perform fuel accounting functions on a timely basis.

Discussion

15. The Commission will accept and suspend the instant tariff sheets, subject to the conditions discussed below, to be effective April 1, 2007, as requested by Transco.

16. First, Transco has included certain claimed losses associated with its Eminence storage field and/or its Eminence Emergency Storage Service in its instant filing. The Commission finds that Transco has not yet adequately supported the inclusion of this item in its filing. As pointed out by the parties, several issues are raised by Transco's inclusion of this item such as the allocation of the costs to all shippers and whether this is a one time loss or a loss which Transco expects to reoccur. Therefore, Transco is directed to respond to the issues raised by the protests in this proceeding, regarding its inclusion of certain Eminence storage losses within thirty days of the issuance of this order. The Commission will then determine whether such adjustment will be appropriate.

17. Second, Transco has requested waiver of its tariff to include certain past period costs in its filing. Specifically, Transco requests inclusion of adjustments to correct the calculation of gas lost and unaccounted for and fuel retention volumes for the production months April 2003 through January 2005. Transco's tariff specifically states that such prior period losses "must be limited to the twenty-four month period immediately prior to the beginning of the deferred period." The tariff also states that the "twenty-four month limitation on prior period adjustments shall apply to adjustments in favor of Buyers and those in favor of Seller." The tariff also provides an exception, as it states that this limitation shall not apply to adjustments in favor of the buyer if such adjustment "results from the Seller's negligence or willful misconduct."

18. In the instant case, Transco has proposed to return what it describes as a net imbalance related to prior period costs to its shippers. In general terms, amounts favoring both Transco and its shippers arose in the past period, and Transco proposes to return the difference to its customers. TMG argues that Transco's failure to record the prior-period adjustment within the twenty-four month period preceding the Deferred Period is the result of action or inaction that reasonably could have been avoided, and the failure to timely account for fuel quantities was the result of negligence. Therefore, TMG would have the Commission direct Transco to return only the past period amounts favoring the shippers rather than the difference between those past period amounts favoring the shipper and those favoring the pipeline. However, the Commission cannot find that Transco's difficulties with its ILine system rise to the level of negligence. Given that Transco has discovered these amounts, provided a reasonable explanation why they were not previously included in its fuel filings, and proposed to return the difference to its

shippers, the Commission will grant the requested waiver for good cause shown, as conditioned below.

19. TMG asserts that if the Commission grants the requested waiver, it should expressly state that the twenty-four month limitation on prior-period fuel quantity adjustments in Transco's favor remains in effect and will be applied in the future. TMG also requests that the Commission limit its approval of the waiver to circumstances where the quantity adjustments is beneficial to customers, or where, as here, the net result of the offsetting out-of-period adjustments results in a fuel quantity adjustment in the customers' favor. The Commission finds that these suggestions by TMG have merit, especially in light of the fact that the tariff language at issue here was approved by settlement after a lengthy proceeding to resolve prior period costs in Docket No. TM99-6-29,³ and the Commission does not wish to undermine the accord reached in that proceeding. The Commission will consider any future request for waiver of Transco's tariff on the merits of the request. Accordingly, the Commission so conditions its waiver.

Suspension

20. Based on a review of the filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept the tariff sheets for filing, and suspend their effectiveness for the period set forth below, subject to the conditions in this order.

21. The Commission's policy regarding tariff filing 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 that it may be inconsistent with other statutory standards. *See, Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension). 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. *See, Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (minimum suspension). Such circumstances exist here where the pipeline is filing pursuant to a tariff approved tracking mechanism. Therefore, the Commission will accept and suspend the proposed tariff sheets to be effective April 1, 2007.

The Commission orders:

(A) The instant tariff sheets are accepted, subject to refund and the conditions expressed herein, to be effective April 1, 2007.

³ *Transcontinental Gas Pipe Line Corp.*, 100 FERC ¶ 61,085 (2002).

(B) Transco is directed to respond to the issues raised by the protests as discussed in the body of this order within 30 days of the issuance of this order.

(C) Transco's request for waiver of its tariff is granted for good cause shown as conditioned in the body of this order.

By the Commission.

(S E A L)

Philis J. Posey,
Acting Secretary.