145 FERC ¶ 61,130
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 15, 2013

In Reply Refer To:
Transcontinental Gas Pipe Line Company, LLC
Docket No. RP14-46-000

Transcontinental Gas Pipe Line Company, LLC
P.O. Box 1396
Houston, TX 77251-1396

Attention: Charlotte Hutson
Manager – Rates

Dear Ms. Hutson:

1. On October 16, 2013, Transcontinental Gas Pipe Line Company, LLC (Transco) filed revised tariff records[1] to clarify its tariff. As discussed below, the Commission will accept without suspension the revised tariff records listed in Appendix A, to be effective November 16, 2013, and accept and suspend the tariff records listed in Appendix B, to be effective April 16, 2014, subject to condition and further order of the Commission.

2. Transco proposed to revise its tariff to: (i) correct a location description and footnote reference in the FT-Mid-South statement of rates; (ii) clarify certain provisions of the Mid-South expansion summary of negotiated rates; (iii) update the list of gathering locations; (iv) clarify a buyer's receipt and delivery point rights under Rate Schedules FT, FT-G, FTN and FDLS; (v) require that all requests for Rate Schedule IT service be submitted electronically through the 1Line; (vi) revise the list of Rate Schedule WSS-Open Access Base Gas buyers to reflect a permanent release of storage capacity and associated base gas purchase rights; (vii) correct an omission in Rate Schedule LG-S to add a reference to Rate Schedule LNG; (viii) add language regarding the NAESB copyright policy; (ix) lengthen the deadlines for adjustments to prior gas day scheduled quantities and pre-determined allocations (PDAs); and (x) lower the threshold for distributing penalty revenue.

[1] The revised tariff records are listed in the Appendices to this order.

3. Public notice of the filing was issued on October 17, 2013. Interventions and protests were due as provided by section 154.210 (18 C.F.R. § 154.210 (2013)). Pursuant to Rule 214, 18 C.F.R. § 385.214 (2013), all timely motions to intervene and any unopposed motions to intervene out-of-time filed before the date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. Comments were filed by the North Carolina Utilities Commission (NCUC).

4. On November 5, 2013, Transco filed an answer to the concerns raised by NCUC. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits answers to protests or answers unless otherwise permitted by the decisional authority.[2] The Commission accepts Transco's answer because it provides information that will assist the decision-making process.

5. As pertinent here, Transco proposed revisions to Section 4.1.(a)(i) of Rate Schedules FT, FT-G, FTN and FDLS as reflected in the underlined words below:

> Transportation service under this rate schedule shall consist of: (a) the receipt of gas on behalf of Buyer up to Buyer's TCQ quantity (plus fuel retained pursuant to the provisions of Section 3.7 hereof and injection fuel under Seller's Rate Schedules GSS, if applicable) at (i) <u>primary points of receipt which include</u> the <u>furthest upstream</u> point<u>(s)</u> of receipt specified in the executed service agreement <u>and all points of receipt within Buyer's firm contract path,</u> or (ii) at secondary point(s) of receipt pursuant to Section 2.8 hereof; (b) the transportation of gas through Seller's pipeline; (c) the delivery of equivalent quantities (dts) of natural gas (less fuel retained pursuant to the provisions of Section 3.7 hereof) by Seller to Buyer, or for buyer's account, at ((i) the point(s) of delivery specified in the executed agreement <u>("traditional delivery point(s)"), (ii) the point(s) of delivery within Buyer's firm contract path upstream of Buyer's traditional delivery point(s) ("non-traditional delivery points")),</u> or (ii<u>i</u>) secondary delivery points pursuant to Section 2.8 of this rate schedule.

6. NCUC contends that this proposed revision appears to degrade the primary point rights of firm shippers whose primary receipt points are at intermediate points within the contract paths of other firm shippers. For example, NCUC states that if a shipper were to have a contract path from zone 1 to zone 5, that shipper could now use any receipt point within its contract path on a primary firm basis. NCUC argues that under the newly proposed tariff language, it appears that the new shipper at the point would have primary firm rights without any determination of whether there is available capacity at the point. NCUC states that, if there is not sufficient capacity available at the receipt point,

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[2] 18 C.F.R. § 385.213(a)(2) (2013).

affording the new shipper firm primary rights could result in pro-rata allocations at that receipt point among any pre-existing shippers whose service agreements list that point as their primary receipt point and the new shipper whose service agreement does not list the point as its receipt primary point but whose contract path includes the point. That is because the new shipper would be deemed to be using the receipt point as a primary receipt point even though its service agreement does not list the point as such. Thus, NCUC argues that it appears that Transco is proposing to create new primary firm capacity at receipt points within the path without regard to whether there is sufficient capacity available at those points to serve both the shippers whose service agreements list that point as their primary receipt point and other firm shippers whose contract path includes the point. Accordingly, NCUC requests that the Commission require Transco to explain how the proposed revisions to sections 4.1(a)(i) of Rate Schedules FT, FT-G, FTN and FDLS will not potentially degrade shippers' rights by affording other firm shippers primary firm rights without regard to whether there is any available capacity at the point.

7. In its answer, Transco states that the proposed revisions do not change the receipt point rights of firm shippers under the existing terms and conditions of its tariff, but were made to clarify Section 4.1.(a)(i) of Rate Schedules FT, FT-G, FTN, and FDLS consistent with Transco's existing terms and conditions. Transco explains that, without its proposed revisions, the existing general language of Section 4.1(a)(i) could limit the primary receipt point rights of a Buyer to only those points identified in the executed service agreement. However, Transco, states that such a reading of Section 4.1(a)(i) would be inconsistent with the other specific provisions of its tariff. Therefore, Transco asserts that its proposed clarifications of Section 4.1(a)(i) are necessary to harmonize that general provision with the existing, specific terms of Transco's tariff that govern shipper priority at receipt points.

8. Transco argues that it does not propose to create new receipt point rights. Transco explains that Section 28.2(a) of the General Terms and Conditions (GT&C) of its tariff addresses the order of priority used in allocating capacity among buyers on Transco's system. According to Transco, that section expressly provides that Transco "shall give first priority to firm transportation service scheduled within firm transportation contract entitlements [i.e., within the path]…," and does not impose restrictions on a buyer's use of receipt points within its firm transportation contract entitlements. Transco asserts that this existing priority standard was found by the Commission to comply with its Order No. 637 policies giving firm shippers flexibility in using their capacity.[3]

[3] Answer at 3-4 (citing *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, FERC Stats. & Regs. ¶ 31,099 (Order No. 637-A) at 31,593-31,598 (2000)).

9. According to Transco, when the Commission evaluated Transco's compliance with Order No. 637, the Commission found that Transco's proposal provided a higher priority to shippers seeking the use of a secondary point within their contract path than shippers seeking the use of mainline capacity outside of their path.[4] Therefore, Transco argues that, under Rate Schedules FT, FT-G, FTN, and FDLS, firm shippers have the right to use all receipt points within the path of, and consistent with, their transportation contract entitlements in the executed service agreements under those rate schedules.[5] Transco maintains that its proposed revisions do not change or degrade the receipt point rights of firm shippers under the existing terms and conditions of its tariff.

10. The Commission has reviewed Transco's proposed tariff revision and its explanation as to the impact on the primary point rights of shippers. We find that the answer is limited in specificity and we cannot determine, without further explanation, whether Transco's proposal changes the existing scheduling priorities for firm shippers at receipt points. Section 28.2(a) provides for Transco to give the highest priority to "firm transportation service scheduled within firm transportation contract entitlements." Section 28.2(a)(i) provides that firm shippers scheduling services under sections 2.8 of Rate Schedules FT and FT-G or sections 2.6 of Rate Schedule FTN or section 2.6 of Rate Schedule FDLS will have the next highest priority. Those sections provide that, "In any zone for which buyer pays a reservation charge to Seller under this rate schedule, Buyer shall have access, on a secondary basis, to receipt and delivery points within that zone which are (i) located on Seller's mainline system upstream of Station 85, which does not include points upstream of Station 30, (ii) located on Seller's Mobile Bay Lateral, or (iii) downstream of Station 85 but not located within buyers firm contract path, as defined by those receipt and delivery points specifically identified in Buyer's service agreement." In addition to section 4.1 of the subject firm rate schedules quoted above, section 4.5 appears to provide a higher priority for service nominated to a "traditional" primary delivery point listed in the shipper's firm contract, than to a "non-traditional" within-the-path delivery point.

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[4] Answer at 4 (citing *Transcontinental Gas Pipe Line Corp.*, 92 FERC ¶ 61,352, at 62,308 (2001) (addressing, among other things, Transco's position that Section 28.2(a) of the GT&C establishes a "priority within the path" for a Buyer's use of points within its path)).

[5] Transco states that, although NCUC did not raise this specific concern, the revisions to Section 4.1(c) of Rate Schedules FT, FT-G, FTN, and FDLS relating to delivery points also do not create any "new" delivery point rights. Transco explains that the right of a Buyer to use "traditional" and "non-traditional" delivery points is addressed in the currently existing Section 4.5 of Rate Schedules FT, FT-G, and FTN, and in the existing and revised Section 4.5 of Rate Schedule FDLS.

11. Transco has not sufficiently explained how these various tariff provisions interact with one another for the Commission to able to determine whether the proposed revisions to section 4.1 of Transco's firm rate schedules will result in any change in the way firm services are currently scheduled on Transco's system. Accordingly, the Commission directs Transco to explain how it currently schedules firm service on its system, with particular emphasis on how it determines the relative priority of (1) a firm transaction scheduled from a shipper's primary receipt point listed in its service agreement and (2) a firm transaction scheduled from a receipt point within a shipper's contract path but not listed in its service agreement. Transco should also explain whether the relative priority of such transactions differs depending upon whether the receipt point in question is upstream of Station 85 or downstream of that station, and any operational reasons for such difference.[6] Finally, Transco should explain how its proposed revision of section 4.1 of its firm rate schedules is consistent with its existing scheduling practices.

12. The Commission finds that the revised tariff records listed in Appendix A can be accepted, without suspension, to be effective November 16, 2013. However, the tariff records listed in Appendix B concerning the proposed changes to Sections 4.1 of Rate Schedules FT, FT-G, FTN, and FDLS should be suspended. 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.[7] 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.[8] Such circumstances do not exist here with respect to the tariff records listed in Appendix B. Therefore, the Commission will exercise its discretion to suspend for the maximum period and conditionally accept and suspend, subject to refund, the proposed tariff records listed in Appendix B to be effective April 16, 2014, subject to conditions and further order of the Commission.

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[6] The Commission recognizes that the scheduling priorities in Transco's tariff reflect the specific operational characteristics of its system, particularly in the production area. *See, e.g., Transcontinental Gas Pipe Line Corp.*, 104 FERC ¶ 61,171 (2003), *reh'g denied*, 107 FERC ¶ 61,156 (2004), *aff'd*, *ExxonMobil v. FERC*, 430 F.3d 1166 (D.C. Cir. 2005).

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

[8] *See Valley Gas Transmission Co.*, 12 FERC ¶ 61,197 (1980) (minimum suspension).

13. Therefore, as discussed above, the Commission accepts the tariff records in Appendix A and accepts and suspends the tariff records in Appendix B, to be effective as listed in the appendices, and subject to further explanation. Transco is directed to comply with this condition within twenty (20) days of this order's issuance. Parties may file reply comments with twenty (20) days of Transco's compliance filing.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A

Transcontinental Gas Pipe Line Company, LLC
FERC NGA Gas Tariff
Fifth Revised Volume No. 1

Tariff Records Accepted Effective November 16, 2013

Section 1.1.17, FT - Mid-South Expansion Rates, 6.0.0
Section 9.2, List of Gathering Points, 4.0.0
Section 13.7, Summary of Negotiated Rate Agreements, 2.0.0
Section 13.8, Summary of Negotiated Rate Agreements, 2.0.0
Section 2.1, Rate Schedule IT, 5.0.0
Section 3.1, Rate Schedule WSS-Open Access, 3.0.0
Section 7.1, Rate Schedule LG-S, 1.0.0
Section 35, Standards for Business Practices, 5.0.0
Section 39, Adjustments to Prior Gas Day Scheduled Quantities and PDAs, 2.0.0
Section 54, Penalty Revenue Sharing, 3.0.0

Appendix B

Transcontinental Gas Pipe Line Company, LLC
FERC NGA Gas Tariff
Fifth Revised Volume No. 1

Tariff Records Suspended Effective April 16, 2014

Section 1.1, Rate Schedule FT, 9.0.0
Section 1.2, Rate Schedule FT-G, 6.0.0
Section 1.3, Rate Schedule FTN, 4.0.0
Section 1.4, Rate Schedule FDLS, 2.0.0