

147 FERC ¶ 61,033  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;  
Philip D. Moeller, John R. Norris,  
and Tony Clark.

Transcontinental Gas Pipe Line Company, LLC

Docket No. RP14-46-001

ORDER ON COMPLIANCE FILING

(Issued April 15, 2014)

1. On December 5, 2013, Transcontinental Gas Pipe Line Company, LLC (Transco) submitted supplemental information in response to the Commission's November 15, 2013 order,<sup>1</sup> accepting its October 16, 2013 filing, which revised and clarified various parts of its tariff, and suspended certain tariff records included in that filing. Specifically, the Commission suspended the revised tariff records clarifying section 4.1(a)(i) of Transco's firm rate schedules<sup>2</sup> concerning the primary rights of firm shippers at receipt points and required Transco to submit additional information on the impact of that proposal. For the reasons discussed below, the Commission finds that Transco's clarification of section 4.1(a)(i) is reasonable and does not change or degrade shippers' primary receipt point rights, and the Commission accordingly removes its suspension of Transco's proposed tariff records.

**I. Background**

2. In its October 16, 2013 filing, Transco, among other things, filed certain tariff records to revise section 4.1(a)(i) of its firm rate schedules to add the underlined language 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

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<sup>1</sup> *Transcontinental Gas Pipe Line Co., LLC*, 145 FERC ¶ 61,130 (2013) (November 15, 2013 Order). The Commission accepted other tariff records without suspension or condition.

<sup>2</sup> These include Rate Schedules FT, FT-G, FTN, and FDLS.

Section 3.7 hereof and injection fuel under Seller's Rate Schedules GSS, if applicable) at (i) primary points of receipt which include the furthest upstream point(s) of receipt specified in the executed service agreement and all points of receipt within buyer's firm contract path, 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 ("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")), or (iii) secondary delivery points pursuant to Section 2.8 of this rate schedule.

3. The North Carolina Utilities Commission (NCUC) protested the proposal stating that it degrades the primary point rights of firm shippers. NCUC argued that, if a shipper had a contract path from zone 1 to zone 5, that shipper could, under Transco's proposal, use any receipt point within its contract path on a primary firm basis. NCUC asserted that, if there is not sufficient capacity available at the receipt point, this action 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 other firm shippers whose service agreement do not list the point as their receipt primary point but whose contract path includes the point.

4. In the November 15, 2013 Order, the Commission questioned whether Transco's proposed tariff language changed the existing scheduling priorities for firm shippers at receipt points. The Commission found that Transco had not sufficiently explained how certain tariff provisions interacted with one another and therefore we could not determine whether the addition of the proposed language to section 4.1(a)(i) would result in any change in the way firm services were currently scheduled on Transco's system. Therefore, the Commission directed Transco to explain how: (1) it currently schedules firm service on its system, with particular emphasis on how it determines the relative priority of a firm transaction scheduled from (a) a shipper's primary receipt point listed in its service agreement and (b) a receipt point within a shipper's contract path but not listed in its service agreement; and (2) its proposed revision of section 4.1 of its firm rate schedules is consistent with its existing scheduling practices.

5. Accordingly, on December 5, 2013, Transco filed supplemental information to comply with the Commission's directives. Transco explained that its proposed revision of section 4.1(a)(i) did not change the way it has scheduled firm service on its system

since the restructuring of its services pursuant to Order No. 636.<sup>3</sup> On December 20, 2013, the NCUC filed comments on the supplemental information. Subsequently, the New Jersey Natural Gas Company and NJR Energy Services Company (NJR) and Piedmont Natural Gas Company, Inc. (Piedmont) filed comments opposing Transco's proposal. The National Grid Gas Delivery Companies (National Grid)<sup>4</sup> requested permission to file reply comments and the UGI Distribution Companies (UGI) filed a motion to intervene out-of-time and reply comments.<sup>5</sup> Both the National Grid and UGI support Transco's proposal.

6. On January 24, 2014, Transco requested permission to file an answer, asserting that its answer would help ensure a complete record upon which the Commission could base its decision on the merits and aid in the disposition of the issues raised by parties. On February 5, 2014, NCUC filed an answer opposing the filings of the National Grid and Transco, and responding to an issue raised in those filings concerning whether parties opposing Transco's proposal are precluded by a Settlement from requesting relief in the instant proceeding.

7. While the Commission's Rules of Practice and Procedure generally prohibit answers to protests or answers, pursuant to Rule 213 of the Commission's regulations,<sup>6</sup> the Commission will accept the answers in this proceeding to ensure a complete record and to aid in the dispositions of the issues raised. The positions of the parties are set forth and discussed below.

## **II. Compliance Filing**

8. Transco states that the language it proposed to include in section 4.1(a)(i) will make that general provision consistent with Transco's existing tariff provisions that

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<sup>3</sup> *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, 57 Fed. Reg. 13,267 (April 16, 1992), III, Order No. 636, FERC Stats. & Regs., Regulations Preambles January 1991 – June 1996 ¶ 30,939 (1992); *order on reh'g*, Order No. 636-A, 57 Fed. Reg. 36,128 (August 12, 1992), FERC Stats., Regulations Preambles July 1996 – December 2000 & Regs. 30,950 (1992).

<sup>4</sup> The National Grid Companies include Consolidated Edison Company of New York, Inc., PSEG Energy Resources & Trade LLC and the Washington Gas Light Company.

<sup>5</sup> The UGI Distribution Companies are UGI Utilities, Inc., UGI Penn Natural Gas, Inc. and UGI Central Penn Gas, Inc. UGI filed its motion on February 18, 2014.

<sup>6</sup> 18 C.F.R. § 385.213(a)(2) (2013).

govern shipper priority at receipt points. Transco explains that, absent this proposed language, the existing language in section 4.1(a)(i) could limit receipt point rights of a shipper to only those points identified in the shipper's service agreement and would *not* include receipt points along the firm contract path. Transco argues this result is inconsistent with other provisions of Transco's tariff that do not restrict those receipt point rights, as well as Commission policy on receipt point flexibility. Transco states that its proposal does *not* create "new" receipt point rights that change or degrade the scheduling priorities or receipt point rights of firm shippers.

9. Transco also explains how it currently schedules firm service on its system and how the relative priority of a firm transaction is determined when an allocation must be made between shippers at primary receipt points that are listed in their service agreement and points that are within a shipper's "contract path" but not listed in the service agreement. Transco states that its tariff does not define primary receipt points. However, according to Transco, its tariff permits shippers access to *all* receipt points within a shipper's contract path. Transco explains that, on its system, receipt points within the shipper's contract path are considered to be primary points, as the term was used by the Commission in Order No. 636.<sup>7</sup>

10. Transco points out that section 28 of its GT&C addresses the order of priority used in scheduling firm transportation service and allocating capacity among firm shippers on Transco's system.<sup>8</sup> Transco explains that a shipper's firm contract path is determined by the receipt and delivery points specified in the shipper's firm service agreement. Under section 4.3 of Rate Schedule FT, shippers scheduling service at a receipt point within their firm contract path, whether or not that receipt point is specified in the service agreement, are allocated capacity at that point first. If an allocation at that point among those shippers is required, Transco states that a *pro rata* allocation is made based on the firm transportation contract entitlements of those shippers in that segment of Transco's system.

11. With regard to delivery points, Transco states that, under section 4.5 of its firm rate schedules, each shipper's service agreement specifies its "traditional" delivery

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<sup>7</sup> Compliance Filing at 5-6 (citing *Transcontinental Gas Pipe Line Corp.*, 75 FERC ¶ 61,210, at 61,704, n.14 (1996) (specifically referencing section 4.1 of Rate Schedule FT). *See also id.* at 61,702, n.10 (noting that section 4.1 of Rate Schedule FT already provided shippers access to all receipt points on Transco's mainline that are within the shipper's contract path)).

<sup>8</sup> Compliance Filing at 5. Transco states that section 4.5 of Rate Schedule FDLS was revised to adapt its terminology to corresponding firm rate schedules FT, FT-G, and FTN.

point(s), which are primary delivery points.<sup>9</sup> Transco explains that all delivery point(s) within the shipper's primary path, i.e., "non-traditional delivery points" are available to the shipper "subject to certain conditions."<sup>10</sup> Transco states that, under section 4.5, a shipper has access to all delivery points within the shipper's contract path. However, *unlike receipt points* within a shipper's contract path, Transco asserts that a shipper's access to a "non-traditional" delivery point within that shipper's firm contract path may be subordinate to firm service scheduled by a shipper for which that delivery point is a "traditional" delivery point.<sup>11</sup>

12. Transco states that section 2.8 of its Rate Schedule FT addresses access to receipt or delivery points located outside of a firm contract path but located in a zone. Transco notes that, under section 2.8, receipt or delivery of quantities on a secondary basis are those quantities in excess of a shipper's firm contract capacity entitlement at the particular receipt or delivery point, i.e., outside the path in a zone where the shipper has firm capacity. Transco explains that such service is accorded secondary priority in the allocation of capacity as provided in section 28.2(a)(i) of the GT&C. Transco states that access to secondary firm receipt and delivery points on its system reflects the unique structure of services in Transco's production area, where firm service is not generally available on the supply laterals in Transco's Rate Zones 1, 2 and 3.<sup>12</sup>

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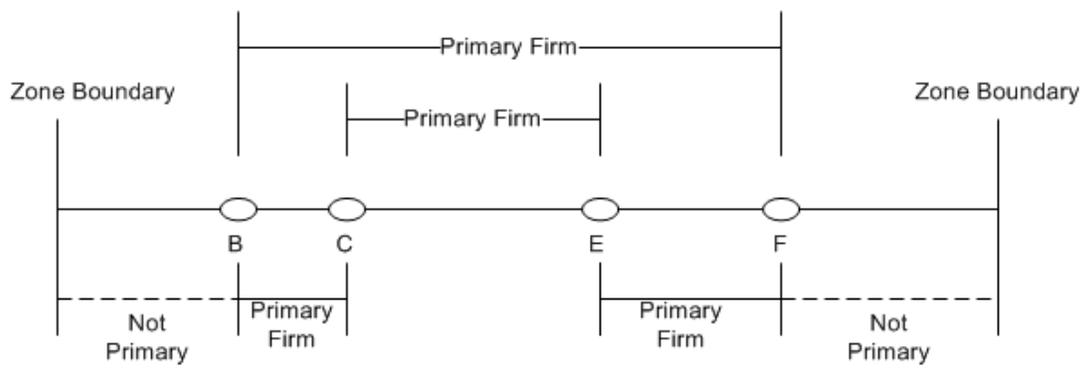
<sup>9</sup> Transco states that the Commission characterizes "traditional" delivery points, as defined in section 4.5 as primary points. Compliance Filing at 6, n.10 (citing 75 FERC ¶ 61,210 at 61,704, n.14).

<sup>10</sup> These conditions include: (a) operating and tariff limitations at such point(s); (b) confirmation and acceptance by the delivery point operator and (c) may be further subordinate to any firm services scheduled to such point(s) which are traditional FT, FTN or FT-G delivery points of another firm shipper. See Compliance Filing at 6.

<sup>11</sup> Compliance Filing at 7 (citing *Transcontinental Gas Pipe Line Corp.*, 75 FERC ¶ 61,210 at 61,703, n.11).

<sup>12</sup> Transco states that description was first approved by the Commission when it accepted tariff provisions implementing access to secondary receipt and delivery points (citing *Transcontinental Gas Pipe Line Corp.*, 75 FERC ¶ 61,210, at 61,704, n.9 (1996) (upstream of Station 85 secondary receipt point flexibility does not interfere with IT-feeder service structure on supply laterals)). Transco states that section 2.8 of its firm rate schedules is not applicable to a firm shipper scheduling service within its contract path and within its contract entitlements, concluding that the priority of such a transaction is not affected by a within-the-path receipt point being upstream or downstream of Station 85. See Compliance Filing at 7-8.

13. Transco provides the following example to illustrate how firm transportation is scheduled on its system under the tariff provisions described above. Transco asserts that, under its tariff, firm transactions that originate either from a point of receipt specified on a firm transportation service agreement or from a point of receipt within the path of the shipper's firm transportation contract entitlements under that service agreement are treated as equal in priority in the allocation of capacity.



14. Transco states this example assumes that a shipper, i.e., Shipper X, has a firm transportation contract entitlement path determined by a receipt point at point B and a “traditional” delivery point at point F, and that such points are specifically identified in Shipper X’s firm transportation service agreement. Under its tariff, Transco states that it evaluates Shipper X’s priority along its entire contract path as “primary” firm. If Shipper X nominates at receipt point C for delivery to a “non-traditional” delivery point E, which is all in the primary path, Transco concludes that the receipt point C on the nominated path is a primary point. Even though receipt point C is not specifically listed on the service agreement, Transco explains that it is within Shipper X’s firm transportation contract entitlements. Transco states that it is only when Shipper X nominates outside of its firm transportation contract entitlements, i.e., outside the primary path of B to F, that Shipper X will be subject to the lower scheduling priority under section 28.2(a)(i) of the GT&C.

15. In response to the Commission’s question concerning the consistency of Transco’s proposal with existing scheduling practices, Transco states that its segmentation and scheduling priorities comply with the Commission’s Order No. 637 policies giving firm shippers flexibility in using their capacity. Transco asserts that, when the Commission evaluated Transco’s Order No. 637 compliance filing, the

Commission found that “Transco’s proposed segmentation and priority standards are in compliance with Orders Nos. 637 and 637-A and the *Texas Eastern/El Paso* policy.”<sup>13</sup> Transco states the Commission found that, under Transco’s proposal, it did not appear that any restrictions apply to allowing either releasing or replacement shippers to choose primary points consistent with their contract demand. Transco further states the Commission found that its proposal provided a higher priority to shippers seeking the use of a secondary point within their capacity path than shippers seeking the use of mainline capacity outside of their path.<sup>14</sup>

**A. Comments on Transco’s Compliance Filing**

16. NCUC, Piedmont and NJR assert that Transco’s proposal changes and/or degrades the primary receipt rights of shippers whose receipt point rights are specified in their service agreements because the proposed language will give shippers that do not have such points specified in their service agreements similar priority rights. Piedmont argues that the degradation of primary receipt point rights can occur on Transco’s system because Transco’s interpretation of such rights is different than the customary prioritization of such rights, which normally are established by specifically designating those points in a service agreement as primary points. Piedmont is concerned about the possibility of a *pro rata* curtailment of its primary point rights on a secondary basis.<sup>15</sup> NJR argues that the practical result of Transco’s proposal is to degrade the guarantee of service that is fundamental to firm service rights between primary receipt and delivery

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<sup>13</sup> Compliance Filing at 10 (citing *Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services*, Order No. 637-A, FERC Stats. & Regs. ¶ 31,099, at 31,593-31,598 (2000)).

<sup>14</sup> *Id.* (citing *Transcontinental Gas Pipe Line Corp.*, 96 FERC ¶ 61,352, at 62,308 (2001)).

<sup>15</sup> Piedmont argues that Transco’s tariff interpretation is contrary to both Commission precedent and the contractual specification of primary receipt points in Transco’s existing service agreements because primary firm rights typically trump any secondary utilization of those points by shippers whose primary point (i.e., contractually specified) rights lie elsewhere. Piedmont states that, while it is true the Commission has typically afforded secondary “in-the-path” transactions priority over secondary “outside-the-path” transactions, it is unfamiliar with any instances where the Commission has elevated a secondary “in-the-path” transaction to the same priority as a primary transaction at either a receipt or delivery point. Piedmont Comments at 2 (citing *Tennessee Gas Pipeline Co.*, 135 FERC ¶ 61,208, at P 27 (2011)).

points.<sup>16</sup> NJR says this is based on its actual experience with cuts to its firm capacity rights at Lambertville, New Jersey this past summer. NJR argues that Transco's existing scheduling practices (whether clarified or not) fail to make good on the required guarantee of service between a shipper's primary receipt and delivery points and should be re-examined.<sup>17</sup>

### **B. Transco's Answer and Comments Supporting Proposal**

17. In its January 24, 2014 answer, Transco responds that its receipt point priority provisions reflect long-standing circumstances on its system. Transco explains that sections 4.1 and 4.3 of its firm rate schedules and section 28.2(a) of its GT&C address receipt point access for firm shippers, which essentially continue the receipt point access rights for firm shippers that existed on the Transco system prior to the restructuring of natural gas pipelines in Order No. 636.<sup>18</sup> According to Transco, its receipt point access provisions provide the highest priority to shippers scheduling firm transportation service "within firm transportation contract entitlements" and have remained in effect and unchanged up to and including the instant filing. Transco states that, as required by the Commission, the information in its supplemental filing explains how the various provisions of Transco's existing tariff interact with one another and demonstrates that the clarifications reflected in section 4.1(a)(i) do not change or degrade the existing scheduling priorities for firm shippers at receipt points and are consistent with the Commission's orders relied on by the opposing parties. Therefore, Transco argues that, given the long-standing nature of the point priority provisions on its system and the fact that it does not propose to change this methodology in the instant filing, the arguments

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<sup>16</sup> NJR states that Order No. 436 established the "guarantee of service" and that this guarantee is required by the Commission's regulations. NJR Comments at 5-6 (citing *Order No. 436*, FERC Stats. and Regs., Regulations Preambles 1982-1985 ¶ 30,665, at 31,517 (1985) and 18 C.F.R. § 284.7(a)(3) (2013)).

<sup>17</sup> According to NJR, the operational constraints that led to the curtailment of its capacity did not meet the definition of a *force majeure* outage (citing Article 11 of Transco's GT&C). Rather, it states capacity was curtailed because nominations at Lambertville exceeded the operating capacity of the point. NJR argues it is foreseeable that Lambertville (or any other point on Transco's system) could be over-nominated under Transco's existing scheduling practices. NJR suggests that Transco overcome this by either (1) adopting more customary scheduling practices or (2) building the necessary capability at each point along its system to accommodate all firm shippers with a firm transportation contract entitlement path past that point. NJR Comments at 8-9.

<sup>18</sup> Transco states that sections 4.1, 4.3 and 28.2 were implemented as part of a Comparability Settlement, discussed below.

raised by the parties related to point priority on other systems and Commission action on other systems is not relevant here.

18. Transco explains that its tariff provisions governing both receipt point access and scheduling priorities<sup>19</sup> result from the restructuring of its system in the late 1980s through a series of settlements to unbundle Transco's sales service from its transportation service. Transco states that a 1989 Comprehensive Settlement<sup>20</sup> provided for the comparable treatment of sales and transportation services. On the issue of whether flexible receipt points were available for all shippers, Transco states that the Commission determined that flexible receipt point authority is available under Transco's rate schedules to permit changes to receipt points for flexible supply arrangements.<sup>21</sup> According to Transco, the relevant aspects of the Comprehensive Settlement were refined and made permanent through two subsequent settlements in 1991 – the Comparability Settlement and the Gas Inventory Charge (GIC) Settlement – in which the Commission reaffirmed the comparability of Transco's transportation service.<sup>22</sup> Transco states that, when Order No. 636 was issued in 1992, the Commission determined that Transco was already in substantial compliance with the principles and goals of Order No. 636 and that only limited refinement appeared necessary to ensure that Transco's operations were consistent with the equality principle of Order No. 636.<sup>23</sup> As a result, with regard to flexible receipt and delivery points and to comply with Order No. 636, Transco states that

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<sup>19</sup> See Transco Answer at 4-5. Transco points out that currently effective section 28.2 of its GT&C provides two priorities for firm shippers scheduling service at receipt points. The first and highest priority is given to shippers scheduling firm transportation service within firm transportation contract entitlements (i.e., within the path). Thus, shippers have access to all receipt points within a shipper's contract path. The second priority is given to shippers scheduling service for secondary firm quantities which are those quantities in excess of the shipper's firm capacity entitlement at the respective point of receipt.

<sup>20</sup> Transco Answer at 5 (citing *Transcontinental Gas Pipe Line Corp.*, 48 FERC ¶ 61,399 (1989), *order on reh'g*, 50 FERC ¶ 61,442 (1990)). This Settlement resolved the issues in a number of dockets, including Transco's take-or-pay cost passthrough proceedings, and restructured Transco's gas sales service for a limited time period.

<sup>21</sup> *Id.* (citing 48 FERC at 62,641).

<sup>22</sup> Transco states the two settlements were approved as a package. Transco Answer at 6 (citing *Transcontinental Gas Pipe Line Corp.*, 55 FERC ¶ 61,446 (1991), *order on reh'g*, 57 FERC ¶ 61,345 (1991)).

<sup>23</sup> Transco Answer at 6-7 (citing *Transcontinental Gas Pipe Line Corp.*, 60 FERC ¶ 61,264 (1992)).

it filed tariff sheets to fully implement flexible receipt and delivery points under its firm transportation rate schedule so that shippers “will have access to all receipt points” on Transco’s system and “to all mainline delivery points upstream of such shipper’s existing city gate delivery point back to Stations 30 and 62” on Transco’s system.<sup>24</sup> Transco explains that the use of flexible receipt points was only subject to “any tariff limitation and existing contract capacity entitlements.”

19. Responding to NJR’s suggestion that Transco’s allocation provisions do not comply with Commission policy guaranteeing full entitlement at receipt points at all times, Transco states that under section 4.3 of its firm rate schedule, shippers are not allocated or “guaranteed” specific receipt point capacity entitlements at, or into the pipeline from, each receipt point.<sup>25</sup> Rather, Transco explains that firm shippers are entitled to their *pro rata* share of capacity at a receipt point if an allocation at the specific receipt point is required, based on the firm contract entitlements of those shippers in that segment of Transco’s system.<sup>26</sup> Transco submits that, to the extent NJR has been subjected to such an allocation, that allocation was consistent with section 4.3.

20. UGI and National Grid urge the Commission to reject the criticism of the opposing parties because the provisions at issue do not violate Commission policy or precedent and have not created any operational problems. These parties point out that Transco has decades of operational experience under its current tariff and neither party is

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<sup>24</sup> Transco states that its tariff complied with Order No. 636’s requirement that pipelines “give firm shippers flexible delivery points in their distribution areas in the same manner as it gives firm shippers flexible receipt points in the production areas,” allowing firm shippers “to change firm delivery points and to use other delivery points on an interruptible basis without losing their priority for firm service.” In addition, Transco states that the tariffs allowed firm shippers to receive gas from any person at any place on the system and the right to deliver gas to any person at any place on the system on a firm basis with the flexibility to change firm receipt and delivery points within the firm transportation capacity to which the shipper is entitled, and for which it pays. Transco Answer at 7, n.14.

<sup>25</sup> Transco Answer at 12 (citing *Transcontinental Gas Pipe Line Corp.*, 55 FERC ¶ 61,446, at 62,377 (1991)).

<sup>26</sup> Transco states, when the Commission approved the Comparability Settlement, the Commission expressly addressed the priorities set forth in section 4.3, accepting Transco’s explanation that this provision did nothing more than give firm shippers the advantage of having the same flexible receipt points that sales service customers had in relation to firm arrangements under pre-existing rate schedules. *See* 55 FERC ¶ 61,446 (1991).

aware of any operational issues being raised by a firm shipper on Transco's system. They also point out that over the past twenty-plus years NJR is the only party to make an allegation concerning receipt point curtailment. They state that NJR gives only vague references to allocations at a single receipt point and assert that NJR provides no meaningful details concerning why the curtailment occurred. Under these circumstances, the parties submit there is no justification for requiring Transco to revise its scheduling priorities or rejecting the proposed clarification concerning receipt point rights.

### **III. Discussion**

21. The resolution of this case turns on whether the language Transco proposed to include in its tariff changes or degrades the primary receipt point rights, the scheduling priorities or the allocation of capacity of firm shippers on the Transco system. Based upon the record in the instant proceeding, and as more fully discussed below, the Commission finds that Transco's proposed tariff language merely clarifies section 4.1(a)(i) of the relevant firm rate schedules in order to make the existing terms of Transco's tariff consistent with Transco's longstanding practice approved by the Commission, when Transco unbundled its transportation service from its sales service shortly before and during the restructuring of its operations pursuant to Order No. 636.<sup>27</sup>

22. The Commission cannot find that the proposed language modifies or degrades the existing primary point rights of Transco's firm shippers. As Transco explains, during the development of the current tariff governing receipt point rights in the late 1980s and early 1990s, Transco and its customers negotiated the terms of the priorities, in large part to ensure that the historical flexibility of Transco's system would be preserved as it unbundled its sales and transportation services. Transco further explains, under its 1991 Comparability Settlement, firm shippers were not assigned and Transco did not allocate specific receipt point capacity entitlements at each receipt point. Rather, every receipt point along the path of the firm shipper's contract entitlement was specified on the shipper's firm service agreement, together with an identification of the shipper's capacity entitlement in the segment of Transco's system on which a particular receipt point was located. If an allocation of capacity at a specific receipt point among shippers was required, then the Comparability Settlement provided for a *pro rata* allocation at that

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<sup>27</sup> *Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, 57 Fed. Reg. 13,267 (April 16, 1992), Order No. 636 FERC Stats. & Regs. ¶ 30,939 (1992); *order on reh'g*, Order No. 636-A, 57 Fed. Reg. 36,128 (August 12, 1992), FERC Stats. & Regs., Regulations Preambles July 1996 – December 2000 30,950 (August 3, 1992).

specific point that is based on the firm contract entitlements of those shippers in that segment of Transco's system.<sup>28</sup>

23. Each of the settlements and filings made by Transco were approved by the Commission as conforming to its policies, including the Commission's approval of Transco's tariff revisions to comply with Order Nos. 636 and 637. In 1996, the Commission expressly recognized that Transco's tariff treats all points within a firm shipper's contract path as primary. The Commission stated, "Transco's currently effective tariff does not identify receipt points as 'primary.' However, Transco's tariff does permit shippers access to all receipt points within a shipper's contract path and such points are considered primary points as the term is used by the Commission in Order No. 636."<sup>29</sup> Moreover, when Transco filed to comply with Order No. 637's requirement that pipelines provide a higher priority for secondary firm within-the-path transactions than those outside the path, the Commission found that Transco's existing tariff complied with those requirements.<sup>30</sup>

24. Transco explains that, over time, specifying each receipt point along the path of the shipper's contract entitlement on each service agreement became unwieldy due to constant changes in the availability of receipt points, the shifting of gas supplies and the removal and addition of receipt point facilities on Transco's system. Because such changes required constant amendments to service agreements, relying on section 4.1 of its tariff, Transco began specifying in a shipper's firm service agreements only those receipt points that were necessary to define the shipper's contract path or the shipper's contract entitlement within that path.<sup>31</sup> Since section 4.1(a)(i) already provided that shippers have access to all receipt points on Transco's mainline that are within the shipper's contract path, Transco proposed the instant clarification of section 4.1(a)(i) to make its tariff consistent with its practice.

25. We agree with Transco that its proposed clarification of section 4.1(a)(i) simply conforms the language of that section to its longstanding practice which originated in

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<sup>28</sup> See *Transcontinental Gas Pipe Line Corp.*, 55 FERC ¶ 61,446 (1991), *order on reh'g*, 57 FERC ¶ 61,345 (1991).

<sup>29</sup> *Transcontinental Gas Pipe Line Corp.*, 75 FERC ¶ 61,210, at 61,704 n.14 (1975).

<sup>30</sup> *Transcontinental Gas Pipe Line Corp.*, 96 FERC ¶ 61,352, at 62,308 (2001).

<sup>31</sup> Section 4.1 permits shippers access to all receipt points within a shipper's contract path and such points are considered primary points as the term is used by the Commission in Order No. 636. *Transcontinental Gas Pipe Line Corp.*, 75 FERC ¶ 61,210, at 61,704, n.14 (1996).

settlements approved by the Commission. Accordingly, the Commission would have to act under section 5 of the Natural Gas Act (NGA) in order to require Transco to modify that practice. Given the history on Transco's system, the parties opposing Transco's existing practice have failed to provide any support for the Commission to find Transco's treatment of primary receipt point rights and its method of scheduling and allocating capacity to be unduly discriminatory or unjust and unreasonable. The record in this case reflects that, for the last quarter of a century, Transco has provided both highly flexible and apparently highly reliable firm transportation service due in large part to the historical design and operation of the Transco system. This flexibility is what it and other shippers on Transco's system rely upon, as UGI states, including the flexibility accorded by the broad primary receipt priority rights as is the practice on Transco's system. The Commission has not been made aware of any instance in which primary receipt point capacity of any firm shipper has been curtailed as a result of Transco's scheduling practices.

26. The parties opposing the instant proposal are correct that Transco's currently effective receipt point rights and scheduling and allocation provisions may not be identical to those on other pipelines. However, the application of our policies to a particular case must be based on the facts and circumstances in the particular case.<sup>32</sup> In the *Tennessee* case relied on by NCUC and NJR, that pipeline historically limited its shippers' primary point rights to those expressly listed in their contracts and refused to permit those rights to exceed the shippers' mainline contract demand.<sup>33</sup> Therefore, the pipeline's proposal to elevate the scheduling priority for firm transactions from a secondary receipt point to a primary delivery point to the same priority as a firm transaction from a primary receipt point to a primary delivery point would have altered the pipeline's historical practice of giving a scheduling priority to service from the primary receipt points listed in the shipper's contract to the primary delivery points. Here, by contrast, Transco is simply continuing its historical practice, agreed to in several settlements, to treat all receipt points within each shipper's primary path as primary receipt points, and it appears that practice has not affected the reliability of its firm shippers' service. Accordingly, application of the policy in *Tennessee* to the facts and circumstances of Transco's system is not warranted and has not been supported.<sup>34</sup> The

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<sup>32</sup> See *Pacific Gas & Electric Co. v. FPC*, 506 F.2d at 33, 3-39 (D.C. Cir. 1974).

<sup>33</sup> The NCUC and NJR Comments rely on *Tennessee Gas Pipeline Co., L.L.C.*, 145 FERC ¶ 61,058, at P 3 (2013) (*Tennessee*) and the Piedmont Comments rely on *Tennessee Gas Pipeline Co., L.L.C.*, 135 FERC ¶ 61,208, at P 27 (2011).

<sup>34</sup> The proposal in *Tennessee* involved a modification proposed by Tennessee's to its existing scheduling priorities. Unlike Transco's practice, the contracts of firm

(continued...)

Commission therefore approves Transco's proposed tariff records listed in the Appendix, without condition effective April 16, 2014.

27. The Commission notes that, in its transmittal to the October 16, 2013 filing, Transco stated “[i]n the event the Commission elects to accept and suspend the revised tariff records, in accordance with the provisions of section 154.7(a)(9) ..., Transco moves to place such tariff records into effect at the end of the applicable suspension period.” Section 154.7(a)(9) of our regulations<sup>35</sup> provides two options regarding the filing of a motion to place suspended rates into effect pursuant to section 4(e) of the NGA. In the case of a minimal suspension, the pipeline may include in its filing a motion to: (1) place the proposed rates into effect at the end of the suspension period; or (2) reserve the right to file a later motion. Transco includes with its filing a motion to place the proposed tariff provisions into effect at the end of *any* suspension period. Pursuant to section 154.7(a)(9), such a motion only applies to minimal suspensions and cannot apply to five-month suspensions. Thus, the motion included in Transco's original filing is ineffective for purposes of moving the proposed tariff sheets into effect at the end of the five-month suspension imposed by the November 15, 2013 Order. Therefore, Transco must file a new motion to place its tariff records into effect as soon as possible after the issuance of this order.<sup>36</sup>

The Commission orders:

(A) The tariff records listed in the Appendix are accepted, without condition, to be effective April 16, 2014.

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shippers on the Tennessee system specify the receipt and delivery points to which the shipper will have primary rights. *See* 135 FERC ¶ 61,208 at P 23.

<sup>35</sup> Section 154.7(a)(9) provides that “A motion, in case of minimal suspension, to place the proposed tariff rates into effect at the end of the suspension period; or, a specific statement that the pipeline reserves its right to file a later motion to place the proposed rates into effect at the end of the suspension period.”

<sup>36</sup> *See Texas Gas Transmission, LLC*, 145 FERC ¶ 61,178, at PP 9-10 (2013).

(B) Transco must file a new motion to place its tariff records into effect as soon as possible after the issuance of this order.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

**APPENDIX**

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

***Tariff Records Accepted 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](#)