

154 FERC ¶ 61,239
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 25, 2016

In Reply Refer To:
Transcontinental Gas Pipe Line
Company, LLC
Docket No. RP16-620-000

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

Attention: David A. Glen, Senior Counsel

Dear Mr. Glen:

1. On February 22, 2016, Transcontinental Gas Pipe Line Company, LLC (Transco) filed a request for waiver of the Commission's capacity release regulations and certain provisions in order to permit a permanent capacity release transaction to occur. Transco requests that this waiver be granted on or before March 25, 2016. For the reasons discussed below, and for good cause shown, the Commission grants the requested waiver.
2. Transco states that it is seeking waiver of sections 284.8(b)(2) and 284.8(e) of the Commission's regulations to allow a negotiated rate storage service agreement to be permanently released to a pre-arranged shipper, at a negotiated rate that is in excess of the maximum tariff rate. Transco states that it has a negotiated service agreement with Washington Gas Light Company (Washington Gas), dated March 1, 2007, as amended, for Rate Schedule ESS storage service, which contains an enhanced injection quantity resulting from Washington Gas's participation in Transco's Eminence Enhancement Project. Transco explains that the negotiated rate is above Transco's existing maximum recourse rate for the service in question. Transco states that this agreement has a Storage

Capacity Quantity of 127,557 dekatherms (Dth) per day, a Storage Demand Quantity of 15,271 Dth per day, and a Storage Injection Quantity of 4,150 Dth per day.¹

3. Transco asserts that Washington Gas reached an agreement to release permanently the entire contract quantity to its affiliate, WGL Midstream, Inc. (WGL Midstream). According to Transco, WGL Midstream is agreeable to accepting all the terms and conditions of the permanent release. These terms and conditions include the following: (a) Transco will permanently relieve Washington Gas of liability for the entire Storage Capacity Quantity of 127,557 dekatherms (Dth) per day, a Storage Demand Quantity of 15,271 Dth per day, and a Storage Injection Quantity of 4,150 Dth per day of capacity being released; and (b) WGL Midstream will permanently assume liability for the entire contract quantity at the negotiated rate under the service agreement, “thereby leaving Transco economically indifferent to the permanent release.”² Following receipt of the waiver requested in the instant filing, Transco states that it will effectuate the instant capacity release transaction in accordance with section 42 of the General Terms and Conditions of its FERC gas tariff, and that it will then file the negotiated rate agreement with the Commission for approval.

4. In order to effectuate this release, Transco requests waiver of all the Commission’s regulations deemed necessary to permit the subject capacity release to occur. Specifically, Transco requests that the Commission waive sections 284.8(b)(2) and 284.8(e) of its regulations to permit the instant pre-arranged permanent capacity release to be treated similar to pre-arranged maximum rate releases, which can be implemented without posting for bids from other shippers, and to allow the release to occur even though it is a release at a negotiated rate above Transco’s maximum tariff rate. Transco asserts that the Commission has previously granted such waivers under similar

¹ Transco notes that it previously filed a similar request for waiver of the Commission’s capacity release regulations under the same negotiated service agreement at issue here. In that case, Washington Gas reached an agreement to release permanently the entire storage contract quantity to Capitol Energy Ventures Corp. (Capitol Energy). *See Transcontinental Gas Pipe Line Co., LLC*, 134 FERC ¶ 61,184 (2011) (*Transco*). However, Transco explains that due to “administrative and operational reasons,” Washington Gas and Capitol Energy did not pursue implementation of the permanent release. *See* February 22, 2016 Transmittal Letter at 2, n.3.

² February 22, 2016 Transmittal Letter at 2.

circumstances.³ Transco requests the Commission grant the waiver on or before March 25, 2016, so that the parties may effectuate the applicable capacity release transaction by April 1, 2016.

5. Public notice of the filing was issued on February 23, 2016. Interventions and protests were due on or before March 7, 2016, as provided in section 154.210 of the Commission's regulations.⁴ Pursuant to Rule 214,⁵ all motions to intervene are granted. No adverse comments or protests were filed.

6. The Commission only requires a pipeline to allow a permanent capacity release, where the pipeline will be financially indifferent to the release. Where, as here, the releasing shipper is paying a negotiated rate in excess of the maximum rate, waiver of the maximum rate is necessary to render the pipeline financially indifferent to the release. Therefore, denial of a waiver request in these circumstances would unnecessarily inhibit the use of permanent releases to transfer capacity that the releasing shipper no longer needs to a shipper that does need it.⁶

7. The Commission finds that here, where Washington Gas proposes to permanently release long term capacity to a replacement shipper found acceptable by Transco and willing to pay the same negotiated rate as Washington Gas, waiver of the applicable maximum rate cap is appropriate. First, all parties (releasing shipper, replacement shipper, and pipeline) agree to the transaction. Second, no other shipper has protested that Washington Gas's choice of WGL Midstream as its replacement shipper is unduly discriminatory. Third, there is no reason to post this release for third parties to submit higher bids, because the Commission would not waive the applicable maximum rate to permit a release at a rate in excess of the negotiated rate the releasing shipper is currently paying. The Commission is only willing to waive the maximum rate as necessary to render the pipeline economically indifferent to the permanent release, and thereby avoid inhibiting the permanent release of the capacity. Allowing the release to take place at an

³ Transco Transmittal letter at 2 (citing *Transcontinental Gas Pipe Line Corp.*, 126 FERC ¶ 61,086 (2009); *Transcontinental Gas Pipe Line Co., LLC*, 133 FERC ¶ 61,242 (2010); *Transco*, 134 FERC ¶ 61,184).

⁴ 18 C.F.R. § 154.210 (2015).

⁵ 18 C.F.R. § 385.214 (2015).

⁶ *E.g.*, *Transco*, 134 FERC ¶ 61,184 at P 6; *Columbia Gas Transmission, LLC*, 154 FERC ¶ 61,162, at P 6 (2016) (*Columbia*).

even higher negotiated rate than the releasing shipper is currently paying is unnecessary for that purpose.⁷

8. The Commission has reviewed Transco's request for waiver and finds that the request is adequately supported and consistent with previous waivers the Commission has granted to permit the release of capacity under similar circumstances.⁸ Accordingly, for good cause shown, the Commission grants Transco's request for waiver of the Commission's regulations in order to complete the permanent release of capacity discussed above.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁷ *Transco*, 134 FERC ¶ 61,184 at P 7; *Columbia*, 154 FERC ¶ 61,162 at P 7.

⁸ *El Paso Natural Gas Co.*, 61 FERC ¶ 61,333, at 62,311-12 (1992); *Tex. E. Transmission Corp.*, 83 FERC ¶ 61,092 (1998); *Midcontinent Express Pipeline LLC*, 124 FERC ¶ 61,089, at P 123 (2008); *Columbia*, 154 FERC ¶ 61,162 at P 6.