

155 FERC ¶ 61,030  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

April 15, 2016

In Reply Refer To:  
Transcontinental Gas Pipe Line  
Company, LLC  
Docket No. RP16-729-000

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

Attention: Scott C. Turkington  
Director, Rates & Regulatory

Dear Mr. Turkington:

1. On March 18, 2016, Transcontinental Gas Pipe Line Company, LLC (Transco) filed a tariff record<sup>1</sup> to revise its tariff to permit it a second method for allocating unsubscribed firm capacity on its system. The Commission accepts the tariff record to become effective April 18, 2016, subject to Transco filing revised tariff records as discussed below.
2. Transco states that pursuant to section 49 of the General Terms and Conditions (GT&C) of its tariff, it must conduct an open season each time it receives a request for firm capacity that has become available on its system, including when the same capacity has been purchased and turned back multiple times within a short time period of time or when equivalent (or greater) quantities of identical capacity are concurrently available on the Unsubscribed Capacity Report. In the instant filing, Transco proposes tariff language which will allow it to hold an open season for its unsubscribed capacity as is currently permitted by its tariff and/or award this unsubscribed capacity on a not unduly discriminatory basis to buyers that submit a valid request for available capacity posted on

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<sup>1</sup> Transcontinental Gas Pipe Line Company, LLC, FERC NGA Gas Tariff, Fifth Revised Volume No. 1, [Section 49, Procedures for Allocating Available Firm Capacity, 2.0.0.](#)

its Unsubscribe Capacity Report. Transco states that this proposal will promote administrative efficiency by eliminating unnecessary and repetitive open seasons.

3. With its proposed revisions, section 49.1 of Transco's GT&C would state:

In the event firm capacity on Seller's system becomes available as described herein, Seller shall post such capacity to its Unsubscribed Capacity Report. Seller shall have the right to (i) award available capacity on a not unduly discriminatory basis to Buyers who submit a valid request for the capacity and/or (ii) solicit bids for available capacity for at least the following periods:

(a) One (1) business day for firm capacity which will be available for one month or less;

(b) Five (5) business days for firm capacity which will be available for more than one month but less than twelve months; and

(c) Thirty (30) business days for firm capacity which will be available for twelve months or longer.

4. Public notice of the instant filing was issued on March 21, 2016. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2015)). Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214 (2015)), all timely-filed motions to intervene and any unopposed motions to intervene out-of-time 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. Cabot Oil & Gas Corporation (Cabot) and Indicated Shippers<sup>2</sup> filed timely protests to Transco's proposal.

5. On April 7, 2016, Transco filed an answer to these protests. Under Rule 213(a)(2) of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.213(a)(2) (2015)), answers to protests are prohibited unless otherwise ordered by the decisional authority.

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<sup>2</sup> In the instant filing, Indicated Shippers are comprised of: Anadarko Energy Services Company; BP Energy Company Chief; Oil & Gas LLC; ConocoPhillips Company; Direct Energy Business Marketing, LLC; ExxonMobil Gas & Power Marketing Company, a Division of Exxon Mobil Corporation; Hess Corporation; and, Noble Energy, Inc. and Shell Energy North America (US), L.P.

The Commission will accept Transco's answer because it provides information that will assist us in our decision-making process.

6. Cabot acknowledges that Commission policy permits interstate pipelines to sell available firm capacity on a first-come, first-served basis rather than only through an open season if it posts all available firm capacity but claims that Transco's proposed tariff language must be revised to ensure that all potential buyers of firm capacity have an adequate opportunity to request the capacity.<sup>3</sup> Cabot states that Transco's proposal only requires Transco to post available firm capacity to its Unsubscribed Capacity Report for an unspecified period of time before it may award such capacity on a first-come, first-served basis. Cabot is therefore concerned that Transco might post unsubscribed firm capacity on its Unsubscribed Capacity Report for a period of only a few hours, and such capacity would be eligible to be awarded by Transco to buyers. Cabot asserts that Transco must be obligated to post the available firm capacity for a minimum period of time before it be permitted to award the capacity on a first-come, first-served basis. Cabot recommends that section 49.1 of the GT&C be modified to require that Transco post all available capacity for not less than five consecutive days on its Unsubscribed Capacity Report.<sup>4</sup> Cabot further recommends that section 49.2(b) of the GT&C be revised to specify that a highest rate bid need only meet Transco's minimum stated term when Transco is "soliciting bids for available capacity."

7. In its Answer, Transco argues that while the Commission accepted a five-day posting requirement in *Tennessee*, there is no Commission policy requiring a specific posting period before capacity may be awarded outside of an open season. Transco notes that in *Columbia*, the Commission did not impose any waiting period, and accepted Columbia's proposal to award newly available capacity on a first-come, first-served basis as long as the capacity had been posted as unsubscribed capacity.<sup>5</sup> Transco also points out that Cabot's concern that a five-day posting requirement would allow all potential buyers of firm capacity to have an adequate opportunity to request the capacity is incompatible with the first-come, first-served basis methodology, and that it may unnecessarily delay transactions for all newly available capacity.

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<sup>3</sup> Cabot's Protest at 4, citing *Northern Natural Gas Co.*, 110 FERC ¶ 61,361, at P 10 (2005).

<sup>4</sup> Cabot's Protest at 4, citing *Tennessee Gas Pipeline Co.*, 135 FERC ¶ 61,208, at P 14 (2011) (*Tennessee*).

<sup>5</sup> Transco Answer at 4, citing *Columbia Gas Transmission, LLC*, 148 FERC ¶ 61,218, at PP 47-48 (2014) (*Columbia*).

8. Transco also challenges Cabot's suggestion that section 49.1 of the GT&C be modified to state that if Transco receives a request for service for available firm capacity that has not been posted on the Unsubscribed Capacity Report, Transco must post such capacity on the Unsubscribed Capacity Report for not less than five consecutive days. Transco notes this situation would not arise because in accordance with Commission regulations and as provided in Transco's tariff, all unsubscribed firm capacity available on Transco's system is posted to its Unsubscribed Capacity Report.<sup>6</sup>

9. Transco also asserts that Cabot's suggestion that section 49.2(b) of its GT&C be modified to state that a highest rate bid need only meet Transco's minimum stated term for purposes of bid evaluation when Transco is "soliciting bids for available capacity," is unnecessary. Transco points out that sections 49.2, 49.3, and 49.4 of its GT&C address the evaluation of bids, multiple best bid situations, and the acceptance of bids, respectively. Transco states that each section specifically refers to bids rather than requests for capacity. Therefore, Transco states that it is clear that these sections apply only when Transco is soliciting bids for available capacity in an open season and not when Transco is awarding available capacity to a Buyer submitting a valid request. Accordingly, Transco states that no revision to section 49.2(b) of the GT&C is required to address these concerns.

10. Transco is correct in stating that there is no general Commission policy requiring a specific time that capacity must be posted before awarding such capacity outside of an open season. Accordingly, the Commission finds that Transco has adequately answered the concerns raised by Cabot and that no modifications to the instant proposal are necessary based on the issues raised by Cabot.

11. Indicated Shippers also protest Transco's filing raising several issues. Indicated Shippers state that the Commission has approved tariff provisions which give the pipeline the discretion to (1) hold an open season for capacity when it believes such an open

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<sup>6</sup> Transco states that in section 35 of its GT&C, Standards for Business Practices, Transco lists the Business Practices and Electronic Communication Standards promulgated by the North American Energy Standards Board (NAESB) Wholesale Gas Quadrant (WGQ), required by the Commission in 18 CFR § 284.12(a) (2016), and incorporated into Transco's tariff. Transco asserts that this list includes the standard requiring the maintenance of an unsubscribed capacity report on Transco's electronic bulletin board. Transco Answer at 4-5 & n. 9.

season will help it obtain the highest value for the capacity, or (2) sell capacity on a first-come, first-served basis when an open season is not needed for this purpose.<sup>7</sup>

12. Indicated Shippers assert, however, that Transco's proposed modification would enable it to award firm capacity in an undisclosed manner. They therefore request that the Commission require Transco to modify its proposal to clarify that it will use the first-come, first-served method for allocating capacity that is not posted in an open season, in lieu of Transco's proposed general reference to a "not unduly discriminatory basis."<sup>8</sup> In response, Transco asserts that Commission policy does not obligate it to award capacity to a buyer that submits a request for available capacity at a discounted rate but that it is willing to revise proposed section 49.1(i) to specifically refer to the use of the first-come, first-served method for awarding capacity to buyers that submit a valid request for available capacity at the maximum rate for such capacity.

13. Indicated Shippers also assert that the open season option set forth in the proposal does not use the term "open season," although Transco refers to that provision as an "open season" provision throughout its Statement of Nature Reasons and Basis. They assert that the Commission should direct Transco to refer in proposed section 49.1(ii) explicitly to a solicitation of bids "in an "open season" to add clarity to that provision. In its Answer, Transco states that it is willing to revise proposed section 49.1(ii) as requested by Indicated Shippers.

14. Lastly, Indicated Shippers request that the Commission prohibit Transco from holding an open season for capacity that is already subject to a first-come, first-served maximum rate offer.<sup>9</sup> In response, Transco states that it does not intend to solicit bids in an open season for capacity for which it has already received a first-come, first-served maximum rate bid, and it asserts that its proposed language does not provide for that result. However, Transco states that to eliminate ambiguity, it will modify section 49.1 to clarify that if Transco awards capacity on a first-come, first-served basis, it will not solicit bids for that awarded capacity in an open season. However, Transco states that it

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<sup>7</sup> Indicated Shipper's Protest at 3, citing *Encana Marketing (USA) Inc. v. Rockies Express Pipeline LLC*, 146 FERC ¶ 61,161, at P 26 (2014); *Northern Natural Gas Co.*, 111 FERC ¶ 61,379, at P 39 (2005).

<sup>8</sup> Indicated Shippers' protest at 3, citing *Encana Marketing (USA) Inc. v. Rockies Express Pipeline LLC*, 146 FERC ¶ 61,161 at P 26; *Northern Natural Gas Co.*, 111 FERC ¶ 61,379 at P 39.

<sup>9</sup> Indicated Shippers' Protest at 3-4, citing *El Paso Natural Gas Co., L.L.C.*, 154 FERC ¶ 61,085, at P 11 (2016).

retains the right to solicit bids in an open season if Transco receives a request for posted capacity at less than the maximum rate.

15. As set forth above, all parties to this proceeding concur that Commission policy permits interstate pipelines to sell available firm capacity on a first-come, first-served basis rather than only through an open season if the pipeline posts its available firm capacity. Cabot and the Indicated Shippers raised specific objections to various aspects of Transco's filing to implement the Commission's policies. However, given the discussion above, the Commission finds that Transco's proposal, as modified in its Answer, is consistent with Commission policies and precedent. Accordingly, the Commission accepts the proposed tariff record to be effective April 18, 2016, subject to Transco filing, within 15 days of the issuance of the instant order, a revised tariff record to reflect the modifications set forth in its answer.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.