

109 FERC ¶ 61,258
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 8, 2004

In Reply Refer To:
Transcontinental Gas Pipe Line Corp.
Docket No. RP05-66-000

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

Attention: Marg Camardello
Manager, Tariffs and Certificates

Reference: See Appendix for List of Tariff Sheets

Dear Ms. Camardello:

1. On November 8, 2004, Transcontinental Gas Pipe Line Corp. (Transco) filed the tariff sheets set forth in the Appendix to reflect the implementation of Order No. 2004.¹ Order No. 2004, *inter alia*, amended and adopted the Commission's Regulations pertaining to the standards of conduct for interstate natural gas pipelines and public utilities.
2. The Commission finds that Transco has complied with Order No. 2004. The tariff sheets listed in the Appendix are accepted effective December 1, 2004, as proposed.

Details of the Filing

3. Transco proposes to 1) modify certain provisions of its tariff to require that Transco post to its internet website exercises of discretion under those particular tariff provisions, thereby eliminating the requirement to make a duplicate posting to its waiver log;²

¹ *Standards of Conduct for Transmission Providers*, Order No. 2004, FERC Stats. and Regs., ¶ 31,155 (2003), *order on reh'g and clarification*, Order No. 2004-A, FERC Stats. and Regs., ¶ 31,161 (2004), *order on reh'g and clarification*, Order No. 2004-B, FERC Stats. and Regs., ¶ 31,166 (2004).

² Order No. 2004-B clarified that when a posting of an exercise of discretion is mandated by the tariff a duplicate posting to the tariff discretion log is not necessary.

2) change sections 19.1(d) and 19.2(d) of the Maximum Daily Delivery Point Entitlement (DPE) provisions of the General Terms and Conditions (GT&C) of its tariff to clarify that Transco will only charge an unauthorized daily overrun penalty if it determines that such deliveries will impair its ability to provide firm service to other shippers on its system; and 3) other tariff revisions that Transco states are designed to provide greater flexibility for Transco and its shippers. Transco states that it is not, however, proposing to change the DPEs on its system because the operational parameters underlying the DPEs remain valid.

Comments

4. Public notice of the filing was issued on November 4, 2004. Interventions and protests were due as provided in section 154.210 (18 C.F.R. § 154.210 (2004)) of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2004)), all timely filed motions to intervene and any motion to intervene out-of-time filed before the issuance 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.

5. Piedmont Natural Gas Company, Inc. filed comments to Transco's proposal. On November 29, 2004, Transco filed an answer to the comments of Piedmont. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.213(a)(2) (2004)) prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Transco's answer because it has provided information that may assist us in our decision-making process. The details of the comments of Piedmont and Transco's answer are discussed below.

6. Piedmont states that it supports Transco's effort to remove inflexible tariff language that encumbers a Buyer's ability to maximize system deliveries. However, Piedmont contends that the proposed revisions to sections 19.1(d) and 19.2(d) of Transco's GT&C should be modified to recognize the use of backhauls on Transco's system.

7. Piedmont states that Transco's position, that its operational parameters originally used to establish the DPEs remain valid today, does not appear to reflect significant changes in the industry, including the benefits of segmented backhauls on its system. Piedmont states that since the establishment of the DPE parameters, backhauls have become more prevalent. Piedmont further states that DPEs were developed assuming a forward haul on the system from upstream access areas and storage to the market areas, but now with supply entering the system in downstream zones for delivery by displacement to upstream markets the initial delivery limitations should not apply.

8. Accordingly, Piedmont states that the proposed tariff language needs to be modified to recognize that, in the event a Buyer is delivering supply into the system at downstream points for redelivery to upstream markets by displacement, DPE limitations are waived to the extent operationally feasible.

Answer of Transco

9. Transco states that Piedmont supports Transco's proposed changes to section 19, but appears to suggest that section 19 be further modified. Transco states that Piedmont makes a brief assertion concerning backhauls, but that assertion in no way establishes that Transco's existing DPE tariff provisions are unjust or unreasonable, or supports Piedmont's suggested tariff modification as just and reasonable. Transco states that DPEs were established pursuant to a Commission approved settlement for firm transportation Buyers that take service at more than one delivery point.³ Whereas a Buyer's Transportation Contract Quantity establishes that Buyer's aggregate contractual entitlement at all physical points of delivery covered by a particular service agreement, a DPE establishes the maximum amount of gas that a Buyer may have delivered to it at a particular physical delivery point and are a function of the physical capacity and design of Transco's system. Transco states DPEs were established to ensure that Transco's capability to provide service to all customers would not be impaired and that excessive takes at any delivery point may impair Transco's ability to make deliveries at other points.

10. Transco states that in its instant filing it did not propose any change to the application of DPEs and has determined that the operational parameters established by DPEs remain valid. Transco argues that any change to its tariff regarding the application of DPEs, can only be established under section 5 of the Natural Gas Act (NGA). Transco states that Piedmont has not shown substantial evidence that Transco's existing tariff is unjust or unreasonable and that Piedmont's suggested modification is just and reasonable.

11. Transco states Piedmont's suggested tariff changes are unnecessary as its existing DPE tariff provisions already provide, at sections 19.1(d) and 19.2(d) of its GT&C, that a Buyer may request "an authorized waiver of Buyer's [DPEs] on the day prior to scheduled flow or on the day of scheduled flow" and that Transco "will provide Buyer with requested deliveries in excess of Buyer's [DPE] to the extent that physical operating conditions permit and to the extent Transco is able to determine that such deliveries will not impair Transco's ability to provide firm service to other Buyers on its pipeline system." Transco states that its existing tariff provisions, thus, already permit Piedmont

³ 56 FERC ¶ 61,002 (1991).

to request an authorized waiver of its DPEs, which Transco will provide if the physical operating conditions permit and Transco's ability to provide firm service to other Buyers is not impaired (i.e., if it is "operationally feasible").

12. Further, Transco states that, under its proposed revision to sections 19.1(d) and 19.2(d), the existing daily overrun penalty would only apply if Piedmont fails to request a waiver of the DPEs and Transco determines that such excess deliveries impaired its ability to provide firm service to other Buyers on its system. Accordingly, Transco states that Piedmont's suggested modification is unnecessary and should be rejected since its existing tariff provisions already permit Piedmont to request an authorized waiver of its DPEs.

Discussion

13. Transco's currently effective tariff language in sections 19.1(d) and 19.2(d) provides that if a Buyer without prior authorization from Transco takes gas in excess of its Maximum DPE at any individual delivery point, all excess gas would be an unauthorized overrun quantity subject to any penalties or provisions of Transco's tariff. Transco's proposed tariff changes to these sections provides the customers with greater benefits by providing that only those unauthorized quantities that impair Transco's ability to provide firm service to other Buyers would be considered unauthorized quantities subject to the penalty provisions of Transco's tariff.

14. The Commission finds that Transco's proposed modifications to sections 19.1(d) and 19.2(d) simply clarify that not all unauthorized overrun DPEs are subject to unauthorized overrun penalties. Only those unauthorized overrun DPEs that are determined by Transco to impair its ability to provide firm service to other Buyers on its pipeline system are subject to such penalties. Piedmont has failed to include any justification to prohibit Transco from not including the use of backhauls in its determination of DPEs that such deliveries may impair Transco's ability to provide firm service to other Buyers on Transco's system. In addition, as pointed out by Transco, all parties have the ability to request an authorized waiver of its DPEs. For these reasons we will reject Piedmont's proposal. Therefore, the Commission will accept the tariff sheets listed in the Appendix effective December 1, 2004, as proposed.

By direction of the Commission.

Magalie R. Salas
Secretary

Appendix

Transcontinental Gas Pipe Line Corp.
Third Revised Volume No. 1

Tariff sheets accepted effective December 1, 2004

Fifth Revised Sheet No. 114
Sixth Revised Sheet No. 115
Second Revised Sheet No. 127
Fifth Revised Sheet No. 132
Fourth Revised Sheet No. 133
Third Revised Sheet No. 135D
First Revised Sheet No. 135E
Third Revised Sheet No. 249P
Fifth Revised Sheet No. 249U
Third Revised Sheet No. 249V
Sixteenth Revised Sheet No. 250
Ninth Revised Sheet No. 257
Sixth Revised Sheet No. 276
First Revised Sheet No. 276B
Fourth Revised Sheet No. 279
First Revised Sheet No. 280A
Fourth Revised Sheet No. 342
Second Revised Sheet No. 343