

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

May 24, 2006

In Reply Refer To:
Transcontinental Gas Pipe Line Corp.
Docket No. RP06-317-000

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

Attention: Marg Camardello
Manager, Tariffs and Certificates

Reference: Eighteenth Sheet No. 250 and Ninth Revised Sheet No. 344 to FERC Gas
Tariff, Third Revised Volume No. 1

Dear Ms. Camardello:

1. On April 24, 2006, Transcontinental Gas Pipe Line Corporation (Transco) filed the referenced tariff sheets to add a new "Waiver" provision to the General Terms & Conditions (GT&C) of its tariff. The proposed waiver would allow Transco to waive its rights and shippers' obligations for a shipper default on a non-discriminatory basis. The Commission grants waiver of the notice period and accepts the tariff sheets effective May 24, 2006, without condition as discussed below.

Summary of Filing

2. Transco proposes to add a new Waiver provision as section 31 to the GT&C of its tariff. Specifically, Transco is proposing the following language:

Discretionary Waiver – Seller may waive any of its rights or any obligations of Buyer hereunder as to any specific default that has already occurred or in advance as to any specific, temporary problem, on a case-by-case basis that is not unduly discriminatory.

Non-Waiver – Notwithstanding the foregoing, no waiver by either Seller or Buyer of any one or more defaults by the other hereunder shall operate or be construed as a waiver of any other existing or future default or defaults, whether of a like or of a different character.

Transco states that the new proposed Waiver section allows Transco to waive its rights and shippers' obligations under Transco's tariff on a not unduly discriminatory basis. Transco states that this language is similar to tariff waiver provisions that have been approved by the Commission for inclusion in other pipelines' tariffs.¹ Further, Transco states that this revision will give Transco the flexibility to work with its shippers to resolve unique, temporary problems that may arise from time to time. Finally, Transco states that in accordance with section 358.5(c)(4) of the Commission's regulations,² Transco will keep a log detailing the circumstances and manner in which it exercises discretion under section 31 and post such information on its ILine Internet Web site within 24 hours of exercising discretion.

Notice, Intervention and Comment

3. Public notice of the filing was issued on April 27, 2006. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.³ Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, all timely motions to intervene and all motions to intervene out of time filed before the issuance of this order are granted.⁴ Granting late intervention will not disrupt the proceeding or place additional burdens on existing parties.

4. The KeySpan Delivery Companies (KeySpan) filed a motion to intervene and a request for conditions. KeySpan states that, while it supports Transco's request for authority to issue limited waivers, KeySpan is concerned that the proposed language is too broad. KeySpan states that Transco should be required to add a sentence at the end of proposed section 31 that states: "Seller will not grant such waivers in instances where such waivers would adversely affect other shippers or Seller's operations." KeySpan states that there is no question that tariff waivers by Transco could potentially affect other shippers. For example, it states, a decision by Transco to waive its gas quality provisions

¹ *Citing Discovery Gas Transmission LLC*, 110 FERC ¶ 61,401 (2005), *reh'g* 111 FERC ¶ 61,377 (2005) (*Discovery*).

² 18 C.F.R. § 358.5(c)(4) (2005).

³ 18 C.F.R. §154.210 (2005).

⁴ 18 C.F.R. §385.214 (2005).

for particular shippers could have a significant adverse impact on downstream shippers who might receive non-conforming, non-merchantable gas as a result of such waiver. In the same manner, KeySpan continues, waiver of an operational flow order – which is issued to protect the system in the first place – could have serious consequences for other parties. KeySpan concludes that, just as the Commission has held that pipelines should not build interconnections that harm pipeline operations or existing customers,⁵ the Commission should hold that pipelines should not waive their tariff where such waivers would affect existing shippers or pipeline operations.

Discussion

5. In *Discovery*, the Commission stated that the Commission will permit pipelines to include in their tariffs provisions not only permitting waiver of the tariff to address past defaults but also permitting advance waivers to address special specific, short term operational problems.⁶ Transco has proffered tariff language which follows the Commission's policy as formulated in *Discovery*. However, KeySpan is seeking further changes to assure that any waiver granted by Transco will not adversely affect existing shippers or pipeline operations. The Commission notes that in several sections of Transco's GT&C Transco already has specific language stating that it will not perform certain acts or functions if such performance of such acts or functions would adversely affect other parties or Transco's operations,⁷ including situations raised by KeySpan.

6. We find that it is unnecessary to require Transco to add KeySpan's proposed language. The general waiver authority granted herein cannot be interpreted to permit Transco to adversely affect other shippers or Transco's operations. Accordingly, we will accept Transco's proposed tariff revision without condition.

By direction of the Commission.

Magalie R. Salas,
Secretary.

⁵ *Citing, Panhandle Eastern Pipe Line Co.*, 91 FERC ¶ 61,141 (2000).

⁶ 111 FERC ¶ 61,377 at P. 14.

⁷ *See*, section 3 – Gas Quality, section 20.3 – Policy for Construction of Interconnect Facility, and section 22.2 – Policy for Consolidation of Service Agreement.