

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeem G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Transcontinental Gas Pipe Line Corporation

Docket No. RP01-245-018

ORDER DIRECTING COMPLIANCE FILING

(Issued October 3, 2006)

1. This order directs Transcontinental Gas Pipe Line Corporation (Transco) to submit a filing to comply with the Commission's directives in the various orders issued in the RP01-245 proceeding. Transco must submit such compliance filing within 30 days of the date of this order.

Background

2. On July 23, 2002, the Commission approved a settlement in Docket No. RP01-245-007 which resolved Transco's cost of service, overall throughput level and mix of throughput for the Docket No. RP01-245-000 rate period, *i.e.*, from September 1, 2001, to the earlier of the effectiveness of Transco's next general section 4 rate case or the effective date of any section 5 rate change ordered by the Commission.¹ Pursuant to Article VII of the settlement, fourteen issues were reserved for resolution pursuant to a hearing or further settlement. Article VII of the Docket No. RP01-245 settlement lists a description of the various reserved issues separately and each description is followed by a provision stating "the resolution of such issue to be effective prospectively only after a final Commission order no longer subject to rehearing." The issue of the design of the rate for service under Transco's Rate Schedule ISS (Interruptible Storage Service) was

¹ *Transcontinental Gas Pipe Line Corporation*, 100 FERC ¶ 61,085 (2002).

resolved by a settlement approved on September 23, 2002.² Thus, only thirteen of the reserved issues were subject to hearing.

3. On March 26, 2004, the Commission issued an order on initial decision resolving those thirteen issues.³ Ordering Paragraph B of the order directed Transco to submit a filing to comply with the directives of the order within 30 days of its issuance. On April 8, 2004, because it intended to file a rehearing challenging the Commission's rulings, Transco filed a motion for extension of time to comply with the March 26, 2004 order. Transco's motion was not opposed. On April 13, 2004, a notice of extension of time was issued granting Transco's motion so that it would not have to submit a compliance filing until 60 days after the issuance of a final Commission order no longer subject to rehearing. On August 5, 2005, the Commission issued an order on rehearing in response to requests for rehearing of the March 26, 2004 Order.⁴ Order Paragraph B of the August 5, 2005 Order directed Transco to submit a compliance filing within 30 days of the date of the order. On August 24, 2005, Transco again filed a motion for an extension of time to comply with the August 5, 2005 Order. Transco's motion was not opposed. On August 25, 2005, a notice was issued granting Transco an extension of time to comply with the August 5, 2005 Order until 60 days after the issuance of final Commission order no longer subject to rehearing. On May 30, 2006, the Commission issued another order on rehearing in this proceeding.⁵ Among other things, the order remanded an issue concerning storage cost allocation to the Chief Administrative Law Judge (ALJ) and established a technical conference to address Zone 4 pooling issues. On July 31, 2006, in response to several requests for rehearing, the Commission issued a notice of denial of rehearing by operation of law.⁶

4. On August 31, 2006, pursuant to Article VI of its settlement in RP01-245, Transco filed a general section 4 rate case in Docket No. RP06-569-000. In its transmittal letter in Docket No. RP06-569-000, Transco stated that it had not reflected in its filing the resolution of any of the reserved cost allocation issues litigated in Docket No. RP06-569-000. Transco asserts that the reason for this is that in Article VII of the RP01-245

² *Transcontinental Gas Pipe Line Corporation*, 100 FERC ¶ 61,298 (2002).

³ *Transcontinental Gas Pipe Line Corporation*, 106 FERC ¶ 61,299 (2004).

⁴ *Transcontinental Gas Pipe Line Corporation*, 112 FERC ¶ 61,170 (2005).

⁵ *Transcontinental Gas Pipe Line Corporation*, 115 FERC ¶ 61,268 (2006).

⁶ *Transcontinental Gas Pipe Line Corporation*, 116 FERC ¶ 61,104 (2006).

settlement the parties agreed that the final resolution of the reserved issues would be made effective “prospectively only after a final Commission order no longer subject to rehearing.” Transco submits that the Commission has not issued a final order no longer subject to rehearing on the reserved issues in Docket No. RP01-245, because it remanded one issue for further hearing and established a technical conference to address another issue. Transco states that once the Commission issues a final order no longer subject to rehearing on the reserved issues, Transco will adjust the rates in Docket RP06-569-000 as necessary to reflect, on a prospective basis, the Commission’s resolution of those reserved issues.

5. In its protest in Docket No. RP06-569, Indicated Shippers seek summary rejection of Transco’s general section 4 rate filing because it does not reflect the Commission’s final resolution of most of the reserved cost allocation issues litigated in Docket No. RP01-245. Indicated Shippers state that these issues include, among other things, the allocation of Administrative and General costs (A&G) to incremental services, the allocation of A&G costs to Transco’s LNG service, and the allocation of storage costs to incremental services and the transportation component of bundled services. Indicated Shippers states that Transco takes the position that the Docket No. RP01-245 settlement does not require implementation of the Commission’s resolution of any reserved issue until the Commission has resolved all of the reserved issues in a final order no longer subject to rehearing. Indicated Shippers asserts that nothing in the settlement supports Transco’s reading. Indicated Shippers contend that Transco is obligated to follow final Commission orders in which the Commission directed Transco to modify its cost allocation methods in certain respects. Indicated shippers argue that Transco must follow those directives in its new rate filing.

Discussion

6. Based upon Transco’s statements in its transmittal letter in Docket No. RP06-569-000 and Indicated Shippers’ protest in RP06-569-000, it appears there is a disagreement over Transco’s filing obligations as a result of the orders in the Docket No. RP01-245 proceeding. In the Commission’s view, clarification is necessary so that the Commission’s determinations in Docket No. RP01-245 are implemented and those determinations can be properly reflected in Transco’s current rate case in Docket No. RP06-569-000.

7. Article VII of the Docket No. RP01-245 settlement lists a description of the various reserved issues separately and each description is followed by provision stating “the resolution of such issue to be effective prospectively only after a final Commission order no longer subject to rehearing.” The Commission interprets this as meaning a final order pertaining to a particular issue. There is nothing in the settlement that states that all issues must be finally resolved before the final findings on any particular issue are

implemented. Thus, the fact that the storage cost allocation issue was remanded to the ALJ and the Zone 4 pooling issue was set for technical conference does not relieve Transco of its obligation to implement the Commission's findings on the other reserved issues that have been resolved by a "final Commission order no longer subject to rehearing." Accordingly, within 30 days of the date of this order, Transco is directed to make a compliance filing to implement the Commission's findings in the various orders in Docket No. RP01-245-000. Parties will have an opportunity to comment on the filing. After the Commission has reviewed Transco's filing and finds that it has properly complied, Transco will be directed to reflect the Commission's RP01-245 findings in its current rate case filing in Docket No. RP06-569-000.

8. The Commission's orders in Docket No. RP01-245 have finally resolved the following three issues in a manner that requires Transco to modify its existing allocation of costs. For convenience we will use the headings from the ALJ's initial decision.

Issue IX: The unbundling of Emergency Eminence Storage Withdrawal Service, the resolution to be prospective only.⁷

Issue XII: The allocation of costs to Transco's incrementally priced transportation services and to Transco's bundled storage service.⁸

Issue XIII: The allocation of A&G costs to Transco's LNG service.⁹

⁷ *Transco*, 115 FERC ¶ 61,268 at P 9-12. It should be noted that this issue is subject to ongoing settlement discussions in conjunction with settlement discussions on the remanded issue concerning the allocation of certain storage costs between and among storage transportation services. *See* Transco's August 4, 2006 Motion for Temporary Suspension of Procedural Schedule at 2-4. If Transco desires to delay its compliance obligation on this issue due to the pending settlement discussions, it may request an extension of time from that obligation.

⁸ *Transco*, 106 FERC ¶ 61,299 at P 190-192 and P 203; *Transco*, 112 FERC ¶ 61,170 at P 143-156.

⁹ *Transco*, 106 FERC ¶ 61,299 at P 210; *Transco*, 112 FERC ¶ 61,170 at P 157-158.

The Commission orders:

Within 30 days of the date of this order, Transco is directed to make a filing to comply with the Commission's directives in the various orders in Docket No. RP01-245.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.