

123 FERC ¶ 61,260
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Columbia Gulf Transmission Company	Docket No.	CP08-54-001
Tennessee Gas Pipeline Company	Docket No.	CP08-55-001

ORDER GRANTING REHEARING

(Issued June 13, 2008)

1. On May 15, 2008, the Commission issued an order granting Columbia Gulf Transmission Company (Columbia Gulf) authorization to abandon by sale its interests in certain natural gas transmission facilities, most of which are jointly owned with Tennessee Gas Pipeline Company (Tennessee), located offshore and onshore Louisiana and granting Tennessee authority to acquire and operate those facilities.¹ On May 20, 2008, Tennessee filed a request for clarification or rehearing, asking the Commission to vacate or clarify Ordering Paragraph (K) of the May 15 Order conditioning Tennessee's certificate authority on its executing final service agreements for capacity equivalent to the volumes reflected in its precedent agreements before acquiring Columbia Gulf's interests in the subject facilities.² For the reasons discussed below, the request for rehearing is granted.

¹ *Columbia Gulf Transmission Company and Tennessee Gas Pipeline Company*, 123 FERC ¶ 61,153 (2008) (May 15 Order).

² On May 21 and May 30, 2008, respectively, Columbia Gulf and Dynegy filed comments in support of Tennessee's request for rehearing.

I. The May 15 Order

2. The May 15 Order approved Tennessee's proposal, as consistent with the Commission's Certificate Policy Statement,³ to acquire, for cash and other consideration, Columbia Gulf's interests in the Blue Water, South Timbalier, and South Pass 77 Systems. The facilities include approximately 530 miles of pipeline ranging in diameter from 6- to 36-inches, ownership interests in six compressor units with a total of 56,000 horsepower, a liquids separation and gas dehydration plant, 28 measuring stations, and associated rights of way and appurtenances. Tennessee stated that it will integrate the acquired facilities into its interstate pipeline system and that the acquisition will provide its customers access to additional supplies and markets. In order to maximize use of the facilities proposed to be acquired, Tennessee conducted an open season for possible expansion of its pipeline system and/or a change in the historical operation of the Blue Water System. Based on the results of the open season, Tennessee subsequently executed precedent agreements for 405,000 Dth/d of new firm transportation service.⁴

3. The May 15 Order granted Tennessee's request that the Commission find that there will be a presumption that Tennessee will be allowed to roll the facility acquisition and operating costs into its generally applicable rates in its first NGA section 4 general rate proceeding after placing the acquired facilities into service, absent a material change in circumstances. In granting the requested presumption in favor of rolled-in pricing, the May 15 Order found, based on Tennessee's precedent agreements for 405,000 Dth/d of new firm transportation service, that rolled-in rate treatment would result in a reduction in systemwide rates.

4. The May 15 Order included Ordering Paragraph (K):

Before the effective date of its acquisition of interests in facilities as authorized herein, Tennessee must execute final firm service agreements for capacity equivalent to the 405,000 Dth/d as reflected in the precedent agreements supporting its proposal.

³ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 at 61,748 (1999); *order on clarification*, 90 FERC ¶ 61,128 (2000); *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

⁴ On April 16, 2008, Tennessee filed the precedent agreements as privileged and requested confidential treatment of the agreements.

II. Request for Rehearing

5. Tennessee asks the Commission to remove or clarify Ordering Paragraph (K) alleging that it can not satisfy that condition, and, as written, the condition would prevent the parties from closing the sale and purchase of facilities before July 1, 2008, when Columbia Gulf's current insurance on its offshore facilities expires. Tennessee asserts that it is not possible to have service agreements executed on or before June 30, 2008, because the precedent agreements anticipate execution of service agreements after Tennessee's acquisition of the facilities and completion, after acquisition, of certain system modifications to make new firm service available.⁵ Tennessee further argues that if a single shipper with a precedent agreement fails to execute such a firm service agreement on the timetable established by the Commission in Ordering Paragraph (K) of the May 15 Order, Tennessee will be unable to proceed with the acquisition of the facilities unless it can find other shippers to execute final agreements for equivalent volumes.

III. Discussion

6. As noted above, in support of its proposal to acquire Columbia Gulf's interests in the subject facilities, Tennessee demonstrated that it had held an open season and had entered into precedent agreements for 405,000 Dth per day of new firm service on these historically underutilized facilities. However, in its request for rehearing, Tennessee points out that it does not contemplate executing service agreements for the capacity subscribed under the precedent agreements until after it has acquired the facilities and completed certain system modifications necessary to provide the additional service.⁶ The existence of unserved demand for firm service as demonstrated by the precedent agreements was a significant factor underlying our determination that the public convenience and necessity required Tennessee's acquisition of additional capacity. Nevertheless, given the fact that the capacity represented by Columbia Gulf's interests in the subject facilities already exists, and thus there will be no environmental consequences to Tennessee's acquisition of that capacity, we will grant Tennessee's request for rehearing and authorize Tennessee to proceed with acquisition of Columbia Gulf's interests in the subject facilities prior to executing final service agreements for volumes

⁵ Tennessee states that any system modifications necessary to provide the new service will take place after it has acquired the facilities and will be in accordance with Commission regulations.

⁶ In fact, there is at least the suggestion in the rehearing request that final service agreements for up to 210,000 Dth per day of the total 405,000 Dth per day reflected in the precedent agreements may never be executed: "[i]n the event that the potential shippers elect to move forward" Request for rehearing at note 14.

equivalent to the volumes represented in its precedent agreements. However, in order to insure that our elimination of the condition imposed in Ordering Paragraph (K) does not result in subsidization of the acquisition by existing customers, we must also reverse our grant of a presumption that Tennessee may roll in the costs associated with its acquisition of Columbia Gulf's interests in the subject facilities in its next section 4 rate proceeding.

7. Since we are allowing Tennessee to proceed with its acquisition of Columbia Gulf's interests in the subject facilities prior to executing final service agreements for volumes equivalent to those represented by its precedent agreement, there is no assurance at this time as to when, if, and at what levels Tennessee will ultimately provide additional services over the acquired capacity or that the revenues from that service will exceed its costs. In its next section 4 rate proceeding, Tennessee will bear the burden of proving that the rate treatment it proposes for the costs associated with the acquisition is justified and will prevent subsidization of the acquisition and additional services by existing customers.

8. Because the May 15 Order approved Columbia Gulf's abandonment of certain services as well as facilities, Ordering Paragraph (B) of the May 15 Order required Columbia Gulf to file a notice at least 30 days before the proposed cancellation of its exchange Rate Schedules X-8 and X-57 and Rate Schedule ITS-2. However, since Columbia Gulf will continue to provide interruptible transportation service on an open-access basis on the remaining parts of its pipeline system, Ordering Paragraph (B) should not have stated that Columbia Gulf should file a notice to cancel Rate Schedule ITS-2; therefore, we modify the May 15 Order accordingly.

The Commission orders:

(A) Tennessee's request for rehearing is granted and Ordering Paragraph (K) is vacated as discussed in the body of this order.

(B) Ordering Paragraph (I) of the May 15 Order, granting Tennessee's request for a predetermination supporting a presumption of rolled-in rate treatment for the costs of acquiring and operating the facilities in Tennessee's next general section 4 rate case, is vacated.

(C) The condition in Ordering Paragraph (B) of the May 15 Order is revised to eliminate the requirement that Columbia Gulf file a notice to cancel Rate Schedule ITS-2.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.