

126 FERC ¶ 61,118  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Transwestern Pipeline Company, LLC

Docket No. CP06-459-002

ORDER AMENDING CERTIFICATE

(Issued February 13, 2009)

1. On November 15, 2007, the Commission issued an order in Docket No. CP06-459-000, granting Transwestern Pipeline Company, LLC (Transwestern) certificate authorization under section 7(c) of the Natural Gas Act (NGA) to construct and operate its Phoenix Expansion Project.<sup>1</sup> On January 8, 2009, Transwestern filed an application to amend its certificate authorization under NGA section 7(c) to revise the initial incremental cost-based recourse rates to reflect increases in the actual and projected cost of construction of its Phoenix Expansion Project. We will amend Transwestern's certificate authorization as requested, for the reasons described below.

**Background**

2. Transwestern expects to complete construction and place its expansion facilities in service on March 1, 2009.<sup>2</sup> The Phoenix Expansion Project will enable Transwestern to transport up to 500,000 Dekatherms of natural gas per day (Dth/d) from the San Juan Basin, located in southern Colorado and northern New Mexico, to markets in central and southern Arizona. The expansion facilities include (1) approximately 25 miles of pipeline looping Transwestern's existing San Juan Lateral in San Juan and McKinley

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<sup>1</sup> *Transwestern Pipeline Co., LLC*, 121 FERC ¶ 61,175 (2007), *reh'g denied*, 122 FERC ¶ 61,165 (2008) (November 15, 2007 Order).

<sup>2</sup> On January 23, 2009, Transwestern filed revised tariff sheets in Docket No. RP09-254-000 to comply with Ordering Paragraph (C) of the November 15, 2007 Order prior to placing rates into effect on March 1, 2009, the anticipated in-service date of the Phoenix Expansion Project. This filing is currently pending Commission action.

Counties, New Mexico, and (2) the Phoenix Pipeline, consisting of approximately 95 miles of 42-inch diameter pipeline and 164 miles of 36-inch diameter pipeline that extend from Transwestern's existing mainline near Ash Fork, Arizona, to interconnect with El Paso Natural Gas Company's (El Paso's) existing East Valley Lateral, which extends for approximately 36 miles, terminating near Coolidge, Arizona. Transwestern indicates that it has selected the option to purchase an undivided interest in El Paso's East Valley Lateral in the amount of 203,500 Dth/d, and will employ capacity on the lateral as part of its expansion project.

### **Proposal**

3. Transwestern states that the cost of facilities for the Phoenix Expansion Project is estimated to be \$957,764,343, using the latest actual costs updated through October 31, 2008, and revised projected costs needed to complete construction.<sup>3</sup> The revised cost estimates for the project reflect a total increase of \$245,948,509, primarily due to higher than expected costs for construction labor, materials, and right-of-way acquisitions.<sup>4</sup> Since the certificate application was filed in September 2006, Transwestern states that there has been a substantial increase in construction costs for large-diameter natural gas pipelines. Also, Transwestern contends that its original budgeting did not anticipate certain additional costs such as rock removal, dust control measures, extra horizontal directional drills, and move-around/stand-by charges from contractors occasioned by archeological investigations and landowner issues. Finally, Transwestern states that land acquisition costs and legal expenses incurred to acquire right-of-way were higher than anticipated due to, among other things, the time required to obtain necessary property rights through the exercise its NGA section 7(h) right of eminent domain in federal court.

4. Transwestern's revised Exhibits K, N, and P provide details about the cost of facilities, overall cost of service, rate derivation, and pro-forma tariff revisions due to the higher construction cost estimates. The revised costs of service are \$127,255,645 and \$14,189,348, respectively, for the Phoenix Pipeline and pipeline looping the San Juan Lateral. Transwestern states that it has not proposed any changes to the rate design billing determinants, return, or other cost of service factors underlying the calculated

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<sup>3</sup> The Phoenix Expansion Project cost of facilities is comprised of \$850,598,145 for the Phoenix Pipeline and about \$107,166,198 for the pipeline looping Transwestern's San Juan Lateral.

<sup>4</sup> The increases attributable to the Phoenix Pipeline and the pipeline looping the San Juan Lateral are \$252,860,203 and \$44,788,306, respectively.

initial rates included in the November 15, 2007 Order, other than a changed depreciation rate resulting from the Commission-approved general rate case settlement in Docket No. RP06-614-000, *et al.*<sup>5</sup>

5. For the Phoenix Pipeline, Transwestern proposes to revise the Rate Schedule FTS-5 incremental firm recourse daily reservation rate to \$0.6973 per Dth of capacity, and Rate Schedule ITS-2 incremental interruptible transportation usage rate to \$0.6973 per Dth. Transwestern also proposes to continue the use of its system Rate Schedules FTS-1 and FTS-4 reservation and usage rates for San Juan receipts and Thoreau deliveries, because incremental rates derived from the increased cost of facilities for the pipeline looping the San Juan Lateral remain lower than the currently effective rates.

6. Transwestern states that its request to revise its initial incremental cost-based recourse rates is consistent with the requirement that revisions prior to placing facilities in service be made pursuant to the filing of a certificate amendment.<sup>6</sup> Transwestern also states that all of its existing firm shippers on the Phoenix Expansion Project will be paying negotiated rates under the Commission's policy statement on alternative rates,<sup>7</sup> and that the revised incremental maximum cost-based recourse rates will not impact the negotiated rate shippers during the term of their contracts.

7. Transwestern submitted an accounting statement in Exhibit S, which assumes an acquisition date of March 1, 2009, for El Paso's East Valley Lateral, and accounting entries for the original cost and accumulated depreciation applicable to El Paso's East Valley Lateral facilities to be acquired, and the payment of a purchase option fee to the Salt River Project.

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<sup>5</sup> See *Transwestern Pipeline Co., LLC*, 119 FERC ¶ 61,096 (2007), *Transwestern Pipeline Co., LLC*, 119 FERC ¶ 61,323 (2007).

<sup>6</sup> Citing *Gulf Crossing Pipeline Co. LLC*, 123 FERC ¶ 61,100, at P 49 (2008), *Cheniere Creole Trail Pipeline, L.P. and Cheniere Sabine Pass Pipeline, L.P.*, 121 FERC ¶ 61,071, at P 24 (2007).

<sup>7</sup> *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, 74 FERC ¶ 61,076, at 61,241 (1996), *reh'g and clarification denied*, 75 FERC ¶ 61,024 (1996), *reh'g denied*, 75 FERC ¶ 61,066 (1996); *petition for review denied*, *Burlington Resources Oil & Gas Co. v. FERC*, 172 F.3d (D.C. Cir. 1998); *Modification of Negotiated Rate Policy*, 104 FERC ¶ 61,134 (2003), *order on reh'g and clarification*, 114 FERC ¶ 61,042 (2006). See also, *NorAm Gas Transmission Co.*, 77 FERC ¶ 61,011 (1996).

## **Notice**

8. Notice of Transwestern's request to amend its certificate authority to revise its initial NGA section 7(c) rates was published in the *Federal Register* on February 4, 2009.<sup>8</sup> No motions to intervene, protests, or other comments were filed.

## **Discussion**

### **Rate Issues**

9. Because revising the initial incremental cost-based recourse rates require amending the authorization issued in the November 15, 2007 Order, Transwestern's request is subject to the jurisdiction of the Commission and the requirements of NGA section 7(c).

10. In its January 8, 2009 amendment, Transwestern describes the reasons for each cost revision and provides revised cost exhibits to support its proposal. Transwestern has provided satisfactory explanations for the increased plant costs, and no existing or prospective shippers on Transwestern's system have protested the revised project costs. Therefore, the Commission accepts the revised project costs and revised recourse rates.

11. In the November 15, 2007 Order, the Commission determined that the incremental rate design for expansion services ensured that Transwestern would assume the financial risk for its Phoenix Pipeline without relying on subsidization from its existing customers, consistent with the Commission's policy statement on new facilities.<sup>9</sup> Analysis of Transwestern's revised initial incremental cost-based recourse rates bears out the same conclusion, i.e., that existing customers will not contribute to expansion project costs. In view of the above, we find that it is in the public convenience and necessity to grant Transwestern's request for amendment of its certificate authority to revise its initial incremental cost-based recourse rates to reflect the current cost estimates for its Phoenix Pipeline, and to continue rolled-in rate treatment for the costs of the pipeline looping the San Juan Lateral, subject to the qualifications and modifications required in the November 15, 2007 Order.

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<sup>8</sup> 74 Fed. Reg. 6020 (2009).

<sup>9</sup> *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999); *orders clarifying statement of policy*, 90 FERC ¶ 61,128 (2000) and 92 FERC ¶ 61,094 (2000).

### Accounting Issues

12. Transwestern provided its pro forma accounting entries recording the exercise of Purchase Option 1 for 203,500 Dth/day of capacity on the East Valley Lateral from El Paso in Exhibit S of the application. Transwestern proposes to account for the acquisition of these facilities through Account 102, Gas Plant Purchased or Sold, and record the original cost of the plant and related accumulated depreciation on its books. Transwestern also proposes to record an acquisition adjustment in Account 114, Gas Plant Acquisition Adjustments, consistent with Gas Plant Instruction No. 5.<sup>10</sup> We accept Transwestern's proposed accounting entries as consistent with the Commission's Uniform System of Accounts (USofA).

13. When a natural gas company uses Account 102 to record the acquisition or disposition of gas utility plant, the USofA requires that a filing be made within six months of the consummation of the transaction that shows the entries clearing Account 102. This filing requirement provides the Commission with the opportunity to review the actual accounting entries related to the transaction to verify they conform to the requirements of the USofA. Therefore, the Commission will require Transwestern to comply with the requirements of the USofA, specifically Gas Plant Instruction No. 5 and the text of Account 102, and submit the required journal entries within six months of the date of the transfer. The accounting submission must provide all the accounting entries related to the transfer along with narrative explanations describing the basis for the entries.

14. The Commission on its own motion, received and made a part of the record all evidence, including the application, as supplemented, and exhibits thereto, submitted in this proceeding. Upon consideration of this record,

#### The Commission orders:

(A) Transwestern's certificate of public convenience and necessity is amended to authorize the revised initial incremental cost-based recourse rates, subject to the qualifications and modifications required by the November 15, 2007 Order, as more fully described in this order.

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<sup>10</sup> See 18 C.F.R. Part 201 (2008).

(B) Transwestern is required to comply with the accounting requirements set forth in the body of this order.

By the Commission. Commissioner Kelliher is not participating.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.