

132 FERC ¶ 61,071
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Transcontinental Gas Pipe Line Company, LLC

Docket No. CP10-21-000

ORDER ISSUING CERTIFICATE

(Issued July 26, 2010)

1. On November 16, 2009, Transcontinental Gas Pipe Line Company, LLC (Transco) filed in Docket No. CP10-21-000 an application under section 7(c) of the Natural Gas Act (NGA)¹ for a certificate of public convenience and necessity authorizing Transco to expand the capacity of its existing Mobile Bay Lateral in order to provide 380,000 dekatherms per day (Dt/d) of incremental southbound firm transportation service (South II Expansion Project). We will authorize the South II Expansion Project, with appropriate conditions, as discussed below.

I. Background and Proposal

2. Transco is a natural gas pipeline company engaged in the transportation of natural gas in interstate commerce. Transco's transmission system extends from its principal sources of supply in Texas, Louisiana, Mississippi and Alabama and the offshore Gulf of Mexico area, through Georgia, South Carolina, North Carolina, Virginia, Maryland, Pennsylvania and New Jersey, to its termini in the New York City metropolitan area.

3. Transco originally constructed the 123.4 mile, 30-inch diameter Mobile Bay Lateral² in 1987 pursuant to section 311 of the Natural Gas Policy Act (NGPA)³ to access gas produced in Mobile Bay and in the offshore Alabama area generally. The Mobile Bay Lateral extends generally northward from the tailgate of the Mobil Oil Exploration and Production Southeast, Inc. gas treatment plant near Coden, Mobile

¹ 15 USC § 717, *et seq.* (2006).

² The lateral was originally named the Mobile Bay Pipeline.

³ 15 USC § 3301, *et seq.* (2006).

County, Alabama, to an interconnection with Transco's mainline near Butler, Choctaw County, Alabama. The line was placed in service on April 8, 1988, with a maximum capacity of 461,962 thousand cubic feet (Mcf) per day. On October 20, 1992, the Commission granted Transco a certificate of public convenience and necessity under section 7 of the NGA to operate the pipeline as a jurisdictional facility and provide transportation service under Subpart G of Part 284 of the Commission's regulations.⁴ On September 15, 1993, the Commission authorized Florida Gas Transmission Company (Florida Gas) to acquire from Transco an undivided ownership interest in the line.⁵

4. The maximum daily northbound capacity of the Mobile Bay Lateral currently stands at 1,093,042 Mcf, with 784,426 Mcf per day owned by Transco and 308,616 Mcf per day owned by Florida Gas. By order issued on May 7, 2009, in Docket No. CP08-476-000, the Commission authorized an expansion of Transco's capacity on the Mobile Bay Lateral that would allow Transco to provide additional firm transportation service in a southbound direction.⁶ The expansion included the construction of a new 9,740 horsepower (hp) Compressor Station 85 in Choctaw County, Alabama, and approximately 2,400 feet of 30-inch diameter pipeline connecting the outlet of the station to the Mobile Bay Lateral. Expansion facilities were placed in-service on May 1, 2010, and Transco's current ownership share of the Mobile Bay Lateral includes 253,000 Dth/d of southbound firm transportation capacity.

II. Proposal

A. Facilities

5. As part of the South II Expansion Project, Transco proposes to install one additional 8,180 hp compressor unit and related auxiliary equipment at Transco's Compressor Station 85,⁷ which is located at the point of interconnection of the Mobile Bay Lateral and Transco's mainline in Choctaw County, Alabama. Transco will also complete minor modifications, including the installation of gas coolers, at the existing

⁴ *Transcontinental Gas Pipeline Corp.*, 61 FERC ¶ 61,073 (1992); *reh'g denied*, 63 FERC ¶ 61,024 (1993).

⁵ *Florida Gas Transmission Company, et al.*, 64 FERC ¶ 61,288 (1993).

⁶ *Transcontinental Gas Pipe Line Corp.*, 127 FERC ¶ 61,122 (2009).

⁷ The additional unit brings the total horsepower at Station 85 to 17,650 hp, all of which will be generated by reciprocating internal combustion engines units. *See* Application at 9.

Compressor Station 83 in Mobile County, Alabama, and the new tap, valve, and associated piping necessary to interconnect with the additional meter station to be constructed, owned and operated by Florida Gas as described below.

6. To accommodate the incremental capacity volumes to be created by Transco's South II Expansion Project, Florida Gas will design and construct an additional meter station, designed for a volume of 400,000 Dth/d, adjacent to its existing Citronelle meter station in Mobile County, Alabama. Transco states that the new meter station will be constructed under Florida Gas' blanket authorization granted by the Commission in Docket No. CP82-553-000 and Transco will reimburse Florida Gas for the cost of the meter station.

7. Transco states the proposed facilities will allow it to provide approximately 380,000 Dth/d of year-round firm, southbound transportation capacity from Transco's Station 85 pooling point (Station 85) to delivery points on the Mobile Bay Lateral, including the existing interconnection with Gulfstream Natural Gas System, L.L.C. (Gulfstream) in Coden, Alabama, while preserving Transco's capability to provide its certificated level of northbound firm transportation service on the Mobile Bay Lateral.

B. Markets/Rates

8. Transco held an open season from January 20, 2009 through February 26, 2009, to solicit bids for firm transportation service under the Expansion Project. Transco states that it has entered into binding precedent agreements with (1) BP Energy Company, (2) Florida Municipal Power Agency, (3) Florida Power Corporation D/B/A Progress Energy Florida, Inc., (4) PowerSouth Energy Cooperative, (5) Southern Company Services, Inc., as agent for its affiliates Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Southern Power Company, and (6) Tampa Electric Company for 100 percent of the 380,000 Dth/d of incremental firm transportation service. Transco states that the precedent agreements require it and the project customers to execute firm transportation service agreements within 30 days of Transco's receipt and acceptance of the authorizations requested. Transco proposes to charge its existing Rate Schedule FT Zone 4A rates and fuel retention for the expansion services and requests a pre-determination that it will be appropriate to roll the costs of the project into Transco's system rates in its next rate case.

Interventions

9. Notice of Transco's application was published in the *Federal Register* on December 7, 2009 (74 Fed. Reg. 64,063). The parties listed in Appendix A filed timely, unopposed motions to intervene. The timely, unopposed motions to intervene are granted

by operation of Rule 214 of the Commission's Rules of Practice and Procedure.⁸ Florida Power Corporation d/b/a Progress Energy Florida, Inc; BP Energy Company and BP America Production Company; and Power South Energy Cooperative filed comments in support of Transco's application. No protests were filed.

III. Discussion

10. Since the proposed facilities will be used to transport natural gas in interstate commerce subject to the jurisdiction of the Commission, the construction and operation of the facilities are subject to the requirements of subsections (c) of section 7 of the NGA.

Certificate Policy Statement

11. The Certificate Policy Statement provides guidance as to how the Commission will evaluate proposals for certificating new construction.⁹ The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions of the environment, and the unneeded exercise of eminent domain in evaluating new pipeline construction.

12. Under this policy, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic

⁸ 18 C.F.R. § 385.214 (2010).

⁹ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

interests will we proceed to complete the environmental analysis where other interests are considered.

13. As noted above, the threshold requirement is that the pipeline must be prepared to financially support the project without relying on subsidization from its existing customers. Transco will provide its expansion service under its existing Part 284 rates. Since none of the South II Expansion Project costs are included in Transco's currently effective rates, accepting Transco's proposal to charge these rates as initial rates for the South II Expansion Project will not result in subsidization by existing customers. Further, as discussed below, the South II Expansion Project revenues will exceed the projected cost of service and a presumption of rolled-in rate treatment is appropriate. Thus, Transco's existing shippers will not subsidize the South II Expansion Project.

14. Transco's proposal will have no impact on its existing customers since the proposal will not result in any degradation of their service. Further, we find no adverse impacts on existing pipelines in the market or their captive customers because the proposal is for new incremental service and is not intended to replace existing service on any other existing pipeline. Additionally, no pipeline company has protested Transco's application.

15. We conclude that any potential adverse effects of the South II Expansion Project are outweighed by the benefits it offers. We conclude that there is market demand for the project as demonstrated by the executed precedent agreements that provide for the long-term subscription of all of the incremental capacity to be made available. In addition, the project will increase the supply options available to shippers on Transco's system. Finally, there have been no claims of adverse impacts on landowners and neighboring communities. For these reasons, we find, consistent with the Certificate Policy Statement and section 7(c) of the NGA, that the public convenience and necessity requires approval of Transco's proposals.

Rates

16. As noted above, Transco proposes that the initial recourse rates applicable to the firm transportation service proposed herein be the prevailing rates under Transco's Rate Schedule FT for transportation within Zone 4A at the time service commences. Transco also proposes to apply its generally applicable fuel retention and electric power rates for Zone 4A transportation to the project. Transco states that the project facilities are expected to result in an overall reduction in fuel attributable to shippers that are not participating in the South II Expansion Project.

17. For purposes of supporting its request for a pre-determination regarding rolled-in rate treatment in a future rate case, Transco calculated an incremental cost of service of

\$7,969,501. This is based on the estimated cost of the South II Expansion Project (\$36,323,000),¹⁰ engineering estimates for operation and maintenance expenses based on estimates for similar facilities, and other cost factors, including a pre-tax return of 15.34 percent¹¹ and a depreciation rate of 2.79 percent.¹² Based on the incremental cost of service, Transco derived an incremental daily reservation rate for the project of \$0.05746 per Dth.

18. Transco's three-year revenue-to-cost-of-service study shows that projected revenues would exceed the incremental cost of service by over \$4.6 million dollars in year one and increasing to nearly \$5.3 million in year 3. Transco states that its study used its currently effective maximum Rate Schedule FT daily reservation rate for Zone 4A – 4A of \$0.09094 per Dth.¹³

19. In addition, Transco provided a fuel study in support of its proposal of rolled-in treatment of the South II Expansion Project fuel costs. Transco used two different models in support of its proposal. In its first model Transco used a seasonal load factor scenario and calculated projected average fuel costs to be 0.212 percent. In its second model Transco used a more conservative 100 percent load factor scenario and calculated projected average fuel costs to be 0.337 percent. Transco's current average fuel costs for transportation from Zone 4A – 4A are 0.51 percent.

20. Transco has demonstrated that allowing it to roll in the cost of the project and to allow for rolled-in treatment of fuel would not result in subsidization by its existing shippers. Therefore, consistent with the Certificate Policy Statement, we find it would be appropriate for Transco to roll in these costs in its next section 4 rate case, assuming no material change in circumstances.¹⁴

¹⁰ See Exhibit K to the Application.

¹¹ Pre-tax return underlying the design of Transco's approved Settlement rates in Docket Nos. RP01-245-000 *et al.*; see *Transcontinental Gas Pipe Line Corporation*, 100 FERC ¶ 61,085 (2002).

¹² Onshore transmission depreciation rate included in the approved settlement in Docket Nos. RP06-569, *et al.*; see *Transcontinental Gas Pipe Line Corporation*, 122 FERC ¶ 61,213 (2008).

¹³ See Exhibit P to the Application.

¹⁴ See, e.g., *CenterPoint Energy Gas Transmission Co.*, 127 FERC ¶ 61,087 (2009).

Environmental Analysis

21. On January 11, 2010, the Commission issued a Notice of Intent to Prepare an Environmental Assessment for the Proposed Mobile Bay South II Project and Request for Comments on Environmental Issues (NOI). The NOI was mailed to interested parties including federal, state, and local officials; agency representatives; environmental and public interest groups; Native American tribes; local libraries and newspapers; and affected property owners.

22. To satisfy the requirements of the National Environmental Policy Act, our staff prepared an environmental assessment (EA) for Transco's proposal that that was placed into the public record on April 28, 2010. The analysis in the EA addresses Water Resources and Wetlands; Fisheries, Wildlife, and Vegetation; Threatened and Endangered Species; Geology, Soils and Land Use; Cultural Resources; Air Quality and Noise Impacts; Reliability and Safety and Cumulative Impacts.

23. In response to the NOI, only one comment letter was received, from the Alabama Division of Wildlife and Freshwater Fisheries, Department of Conservation and Natural Resources, which stated that environmental impacts should be minimized during construction by strict adherence to proper erosion control and re-vegetation procedures. Further, it recommended directional drilling should be utilized at stream crossings where habitat known to support sensitive species exist and potential impacts to state-owned water bottoms be avoided. In addition, it recommended that the noise level at the new compressor station should not exceed 55 decibels and that the EA include an analysis of impacts of noise pollution on wildlife and humans engaged in outdoor activities.

24. The EA states that Transco would implement its Construction Best Management Practices Plan, which incorporates our Upland Erosion Control, Revegetation and Maintenance Plan and our Wetland and Waterbody Construction and Mitigation Procedures. Further, Transco would comply with applicable federal and state permits that address water quality and storm water management. Directional drilling and wetland/waterbody mitigation are not required since streams and wetlands are not impacted. In addition, state-owned water bottoms are also not impacted by this Project. As a result, the EA concludes that environmental impacts on water resources would be minimized during construction.

25. The EA states that Transco performed an acoustical analysis and concluded that the sound contribution of Station 83 and Station 85 at the nearby noise-sensitive areas should be equal to or below 55 decibels (dBA) after installation of the planned station modifications. Although the predicted noise levels are below 55 dBA, the level at which there could be a noticeable affect, the EA recommended that Transco conduct a noise survey following construction to verify the actual noise level. Therefore, environmental condition 7 requires Transco to file a noise survey no later than 60 days after placing the facilities in operation to confirm that the noise levels are equal to or below 55 dBA.

26. Based on the discussion in the EA, we conclude that if constructed and operated in accordance with Transco's application and supplements, and in compliance with the environmental conditions in the Appendix to this Order, our approval of this proposal would not constitute a major federal action significantly affecting the quality of the human environment.

27. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction of facilities approved by this Commission.¹⁵

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

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Transco to construct and operate the Mobile Bay South II Expansion Project, as described more fully in the order and in the application.

(B) The certificate issued herein is conditioned on Transco's compliance with all of the applicable regulations under the NGA, particularly the general terms and conditions set forth in Parts 154, 157, and 284, and paragraphs (a), (c), (e), and (f) of section 157.20.

(C) Prior to commencing construction, Transco must execute service agreements for the levels and terms of service reflected in the precedent agreements submitted in support of its proposal.

(D) Transco's facilities shall be constructed and made available for service within one year of the date of the order in this proceeding, in accordance with section 157.20(b) of the Commission's regulations.

¹⁵ See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(E) Transco's request for a predetermination favoring rolled in rate treatment for the costs of the Project and fuel costs as described in this order in its next general section 4 proceeding is granted, absent a significant change in circumstances.

(F) The certificate issued herein is conditioned on Transco's compliance with the environmental conditions set forth in Appendix B to this order.

(G) Transco shall notify the Commission's environmental staff by telephone, e-mail, and/or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Transco. Transco shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix A

Motions to Intervene

- Southern Company Services, Inc.
- North Carolina Utilities Commission
- Piedmont Natural Gas Company, Inc.
- Atmos Energy Corporation
- PSEG Energy Resources & Trade LLC
- Public Service Company of North Carolina, Inc.
- PECO Energy Company
- Consolidated Edison Company of New York, Inc.
- New Jersey Natural Gas Company
- Florida Power & Light Company
- New Jersey Natural Gas Company
- Florida Municipal Power Agency
- The Municipal Gas Authority of Georgia and the Transco Municipal Group
- National Grid Gas Deliveries Companies, *et. al.*

Appendix B

Environmental Conditions for the Mobile Bay South Expansion Project

As recommended in the EA, this authorization includes the following conditions:

1. Transcontinental Gas Pipe Line Company, LLC. (Transco) shall follow the construction procedures and mitigation measures described in its application and supplements and as identified in the environmental assessment (EA), unless modified by the Order. Transco must:
 - a. request any modifications to these procedures, measures, or conditions in a filing with the Secretary;
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) before using that modification.
2. The Director of OEP has delegated authority to take whatever steps are necessary to insure the protection of all environmental resources during construction and operation of the project. This authority would allow:
 - a. the modification of conditions of the Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to construction**, Transco shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel would be informed of the environmental inspector's authority and have been or would be trained on the implementation of the environmental mitigation measures appropriate to their jobs before becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. As soon as they are available, and before the start of construction, Transco shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for the facilities approved by the Order. All requests for modifications of environmental conditions of the Order or site-specific clearances must be written and must reference locations designated on these alignment maps/sheets.

5. Transco shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, and documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP before construction in or near that area. This requirement does not apply to minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
 - b. implementation of endangered, threatened, or special concern species mitigation measures;
 - c. recommendations by state regulatory authorities and agreements with individual landowners that affect other landowners or could adversely affect sensitive environmental areas.
6. Transco must receive written authorization from the Director of OEP **before commencing service** from the project. Such authorization would only be granted following a determination that rehabilitation and restoration of the right-of-way and other disturbed areas is proceeding satisfactorily.
 7. Transco file noise surveys with the Secretary **no later than 60 days** after placing the authorized facilities at Compressor Stations 83 and 85 in service. If the noise attributable to the operation of the compressor stations at full load exceeds an day-night sound level (L_{dn}) of 55 decibels (dBA) at any nearby noise-sensitive areas (NSAs), Transco shall install additional noise controls to meet the level **within 1 year** of the in-service date. Transco shall confirm compliance with the above requirement by filing a second set of noise surveys with the Secretary **no later than 60 days** after it installs the additional noise controls.

8. **Prior to receiving written authorization from the Director of OEP to commence construction of project facilities**, Transco shall file with the Secretary documentation that it has received all authorizations required under federal law (or evidence of waiver thereof).