



assertions, Mr. Daversa had, in fact, had ample notice of and opportunity to comment on the proposals during the early stages of the proceeding -- more specifically, between April 2008 and October 2009 -- and that Mr. Daversa had not shown good cause to grant his motion to intervene at this late stage of the proceeding, after issuance of the Commission's order on the merits of Transco's and Florida Gas's application. As explained in our November 18 Order, Mr. Daversa had knowledge about the proposals because he received information concerning the environmental survey, pre-filing process, and an open house by certified mail. He also received the landowner notification required by Commission regulations, including information on how to intervene in Commission proceedings, by hand delivery. Even though Mr. Daversa expressed concerns about the pipeline route to the applicants' representative, he did not exercise his prerogative to intervene timely or submit comments on the proposal to the Commission during appropriate stages of the proceeding. We found that allowing late intervention at this late point potentially would create prejudice and additional burdens to the Commission, other parties, and the applicants.

4. On December 15, 2010, Mr. Daversa filed a request for rehearing of the November 18 Order. In his filing, Mr. Daversa contends that he did not receive information on or understand how to intervene, or receive notice concerning the final routing decision and any opportunity to comment in this proceeding, and questions the level of effort made to notify him. He claims that he and his family have been harmed because the Commission failed to insure that he received appropriate notice. He asserts that his August 4 filing was timely because it was less than 30 days from the date of the July 15 Order. Finally, he contends that two alternate routes that would have had minimal or no negative impacts on landowners were not considered.

5. Landowner notification of certificate applications under section 7 of the Natural Gas Act is provided for in section 157.6(d) of the Commission's regulations.<sup>4</sup> Applicants for authority to construct and operate natural gas pipeline facilities are required to make a good faith effort to notify all affected landowners (1) by certified or first class mail, sent within 3 business days following the date the Commission issues a notice of the application, or (2) by hand, within the same time period. Applicants must also publish notice of the filing. The regulations require the notice to contain specific information about the proposed project, landowner rights, and the Commission's certificate process, including information on how to intervene in a Commission proceeding. If the notice is returned as undeliverable, the applicant(s) must make a reasonable attempt to find the correct address and notify the landowner.

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<sup>4</sup> 18 C.F.R. § 157.6(d) (2010).

6. As noted in the November 18 Order, Transco and Florida Gas sent the landowner notification required by section 157.6(d) of the Commission's regulations to Mr. Daversa by certified mail on August 28, 2009; the notice provided that motions to intervene and comments were due by September 17, 2009.<sup>5</sup> This notification was returned as undeliverable on October 8, 2009, and on that same date, the applicants' representative contacted Mr. Daversa by telephone, obtained a new address, and arranged a meeting with Mr. Daversa. The meeting took place at Mr. Daversa's home on October 12, and the applicants' representative provided Mr. Daversa with the landowner notification, which included a copy of the Commission's pamphlet that explains the certificate process, and information on how to intervene in proceedings before the Commission.<sup>6</sup> We are satisfied that the record shows that the applicants' actions in this regard demonstrate that they made a good faith effort to notify Mr. Daversa in accordance with our regulations and that Mr. Daversa had actual notice of the proceeding then pending before the Commission.

7. As previously noted in the November 18 Order, despite having ample notice and opportunity, Mr. Daversa elected not to intervene or submit comments to the Commission during the early stages of the proceeding. Mr. Daversa received the required notice, including information on how to intervene in this proceeding, on October 12, 2009, but did not file his motions to intervene until August 4, 2010, 20 days after the issuance of the Commission's final order in this proceeding.

8. Rule 214(d) of the Commission's Rules of Practice and Procedure provides that, in acting on any late motion to intervene, the Commission may consider whether the movant had good cause for failing to file the motion within the time prescribed and whether any disruption of the proceeding or prejudice to or additional burdens on the existing parties might result from permitting intervention.<sup>7</sup> Mr. Daversa points out that he moved to intervene less than 30 days after the Commission had issued its order in this proceeding. However, his filing was over 10 months after the September 17, 2009 intervention deadline established in the Commission's notice of the filing of the applications.<sup>8</sup> The time for Mr. Daversa to have made the Commission aware of his concerns regarding the

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<sup>5</sup> Notice of Florida Gas' application in Docket No. CP09-455-000 and the joint application of Florida Gas and Transco in Docket No. CP09-456-000 was published in the *Federal Register* on September 3, 2009 (74 Fed. Reg. 45,626).

<sup>6</sup> This sequence of events is described in the Transco/Florida Gas October 5, 2010 Response to the Commission staff's September 28, 2010 Data Request at Question 4.

<sup>7</sup> 18 C.F.R. § 385.214(d) (2010).

<sup>8</sup> 74 Fed. Reg. 45,626 (2009).

proposed pipeline route was while the applications were being analyzed and the record was being developed, not after a final ruling was issued by the Commission.

9. The Commission has held that a movant bears a higher burden to show good cause for moving to intervene after the issuance of an order addressing the merits of an application, since allowing late intervention at that point may subject the other parties and/or the Commission to substantial prejudice and additional burdens.<sup>9</sup> The November 18 Order found that Mr. Daversa failed to show good cause for moving to intervene so late in the proceeding and accordingly denied his untimely motion to intervene. We affirm that ruling here.

10. Since, under section 19(a) of the NGA and Rule 713(b) of our regulations,<sup>10</sup> only a party to a proceeding has standing to request rehearing of a Commission decision, the November 18 Order dismissed Mr. Daversa's August 4 request for rehearing. Because Mr. Daversa shows no error in the November 18 Order, we will deny his December 15 request for rehearing.

The Commission orders:

Mr. Daversa's request for rehearing is denied.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>9</sup> See, e.g., *Columbia Gas Transmission Corp.*, 113 FERC ¶ 61,066 (2005), *Entrega Gas Pipeline Inc.*, 113 FERC ¶ 61,327 (2005).

<sup>10</sup> 18 C.F.R. § 713(b) (2010).