

129 FERC ¶ 61,112
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Transcontinental Gas Pipe Line Company,
LLC

Docket No. RP09-558-001

ORDER ON COMPLIANCE FINDING

(Issued November 6, 2009)

1. On July 10, 2009, in compliance with the Commission's June 26, 2009 order,¹ Transcontinental Gas Pipe Line Company, LLC (Transco) submitted additional information concerning its April 30, 2009 tariff filing to establish new Rate Schedules Firm Delivery Service (FDLS) and Interruptible Delivery Lateral Service (IDLS). The June 26 Order directed Transco to respond to certain questions. The Commission accepts Transco's tariffs sheets, subject to conditions, and reduces the suspension period.

I. Background

2. Transco filed on April 30, 2009 tariff sheets² to establish new Rate Schedules Firm Delivery Lateral Service (FDLS) and Interruptible Delivery Lateral Service (IDLS). Transco's proposed tariff sheets were accepted and suspended, subject to conditions, to be effective the earlier of November 29, 2009, or a date specified in a subsequent Commission order in the proceeding. As described more fully below, the Commission found that several aspects of Transco's Rate Schedule FDLS were not fully supported, and, therefore, required Transco to respond to additional questions posed in the June 26 Order. Transco filed its response to the Commission's questions on July 10, 2009.

3. In its April 30 filing, Transco stated that it was proposing the new rate schedules, FDLS and IDLS, to provide delivery lateral transportation service for its customers, and that Rate Schedule FDLS would be available to shippers desiring firm transportation on designated lateral facilities and that Rate Schedule IDLS would be available for

¹ *Transcontinental Gas Pipe Line Co., LLC*, 127 FERC ¶ 61,297 (2009) (June 26 Order).

² See the Appendix of the June 26 Order that lists the proposed tariff sheets.

interruptible open access service on an FDLS lateral. As part of its proposal, Transco stated that it would credit the fixed cost component of the Rate Schedule IDLS revenues to Rate Schedule FDLS shippers on the same lateral. Transco also stated that Rate Schedule FDLS would be a no-notice service with a specific daily transport contract quantity and that such service would also be subject to a specified maximum hourly quantity (MHQ) that may not be exceeded. The Commission determined that Transco's proposal was not fully supported with regard to interruptible transportation (IT) revenue crediting, the interaction between the no-notice nature of Rate Schedule FDLS and required upstream service agreements and Transco's proposed MHQ requirement for rate schedule FDLS, and posed questions to Transco regarding these issues. As discussed in detail below, the Commission accepts the clarifications made by Transco in response to the Commission's questions.

II. Notice of Filing, Interventions and Protests

4. Public notice of Transco's filing was issued on July 14, 2009. Comments were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210. No comments were filed.

III. Discussion

A. Rate Schedule IDLS and Revenue Crediting

5. In the June 26 Order, the Commission noted that it would not rule on Transco's IT crediting proposal because it appeared that Transco had misinterpreted Commission policy to require either a 100 percent credit of the interruptible revenues, net of variable costs, to firm customers or an allocation of costs and volumes to those services. The Commission explained that the precedent cited by Transco was issued in the NGA section 7 certificate context and that the interruptible revenue crediting was a condition to the approval of initial rates in those proceedings. The Commission noted that it was not ruling on initial rates in the instant proceeding and that such rate would be established in each lateral delivery line certificate proceeding, as well as a determination whether to impose an interruptible revenue crediting condition. The Commission thus directed to clarify its revenue crediting proposal in light of the new information.

6. In its compliance filing, Transco states that it accepts that the Commission will decide the issue of IDLS revenue crediting in each respective certificate proceeding that authorizes the construction and operation of a new FDLS lateral. Therefore, Transco proposes to eliminate section 8 (Revenue Sharing) from Rate Schedule IDLS and reserve that section for future use. Transco states that if the Commission determines in a certificate proceeding authorizing a new FDLS lateral that IDLS revenue crediting is appropriate for that lateral and that the crediting requirement should be included as part of Transco's FERC Gas Tariff, then Transco may subsequently file revised tariff provisions in section 8 of Rate Schedule IDLS that set forth the details of the revenue

crediting requirement. Additionally, Transco states that if the Commission requires Transco to file annual reports related to IDLS revenue crediting, Transco would include the particulars of such reporting in section 34 of the General Terms and Conditions of its FERC Gas Tariff.

7. The Commission accepts Transco's proposal to eliminate section 8 from Rate Schedule IDLS and reserve that section for future use. The Commission directs Transco to file revised tariff sheets with its motion filing, reflecting the above accepted proposal. Because, as noted above, any determination regarding the treatment for initial rate crediting requirements or annual reports will be determined in each certificate proceeding authorizing a new FDLS lateral on a case-by-case basis, the Commission will not rule at this time on Transco's proposed treatments for future certificate initial rate crediting requirements or future annual reports.

B. Rate Schedule FDLS and its Relationship with other Transportation Services

8. In the June 26 Order, the Commission noted its concern regarding the relationship between Transco's Rate Schedule FDLS and transportation services upstream of the Rate Schedule FDLS receipt points. Specifically, the Commission questioned whether, because Transco proposed service under Rate Schedule FDLS to be no-notice service, a no-notice Rate Schedule FT contract upstream of the FDLS receipt point is a precondition for Rate Schedule FDLS Service. The Commission questioned whether such a requirement was just and reasonable. The Commission also requested clarification of Transco's statement that "all shippers transporting gas under rate schedules other than Rate Schedules FDLS or IDLS (e.g., Rate Schedule FT) will not have access to points on an FDLS lateral."³ Thus, the Commission directed Transco to clarify this relationship.

9. In its compliance filing, Transco states that no such precondition exists for receiving service on Rate Schedule FDLS and that each shipper will make its own determination concerning the service(s) to be used for delivering gas to the FDLS receipt point. Transco states that examples of service for upstream service to Rate Schedule FDLS receipt points include firm transportation service, interruptible transportation service, and capacity release. Transco also notes that a shipper under Rate Schedule FDLS could purchase gas at the FDLS receipt point from a third-party shipper.

10. The Commission finds that Transco's explanation addresses the Commission's concerns.

³ June 26 Order, P 9.

C. Rate Schedule FDLS Maximum Hourly Quantity (MHQ) Limitation

11. The June 26 Order also noted several concerns with regard to Transco's proposed MHQ limitation in Rate Schedule FDLS. Specifically, the Commission stated that if the MHQ was a restriction or part of the definition of the Rate Schedule FDLS, then it should be included as part of the rate schedule's definition of service, not a part of the service agreement. The Commission also noted that it was unclear whether the MHQ is a limitation on Rate Schedule FDLS' no-notice service or an independently negotiated condition of service. Moreover, the Commission questioned the role of MHQ if Transco did not intend to require an upstream FT contract for transportation to the FDLS delivery point.

12. Transco states that the MHQ is an hourly service limitation that is an integral part of Rate Schedule FDLS. Transco states that section 4.3 of Rate Schedule FDLS describes the meaning of MHQ and the limitation it imposes on Transco's obligation to deliver gas to the FDLS delivery point, which is the maximum quantity of gas specified in an executed service agreement that Transco is obligated to deliver to a shipper and that a shipper is entitled to take from Transco during any hour at the primary points specified in the executed agreement. In addition, according to Transco a shipper has the right to take gas at the delivery point at an hourly gas flow not to exceed the MHQ. Transco states that because the agreed upon MHQ is a contractual service limitation based on the design of the facilities, it is appropriate to specify that quantity in the Rate Schedule FDLS service agreement.

13. With regard to whether the MHQ is a limitation on Rate Schedule FDLS service or is intended to be an independently negotiated service condition, Transco states that the design capacity of a particular delivery lateral and the resulting MHQ will be mutually agreed upon after consultations between Transco and the requesting shipper.

14. In clarifying the Commission's concerns with the MHQ limitations, Transco states that the purpose of the last sentence in Article III of the Rate Schedule FDLS Form of Service Agreement (Original Sheet No. 602) is to specify the conditions under which Transco will be obligated to make deliveries at the minimum pressure specified in Article III of the FDLS service agreement. The last sentence of Article III states:

Seller's obligation to redeliver gas to Buyer or for the account of Buyer at the minimum pressure specified at the point(s) of delivery is subject to (1) Buyer taking delivery of such gas at an hourly gas flow not in excess of Buyer's MHQ, and (2) such gas being scheduled by or for the account of Buyer to the point(s) of receipt specified in this agreement on Seller's mainline under a Rate Schedule FT service agreement for which such point(s) of receipt is a traditional Rate Schedule FT delivery point or a non-traditional delivery point as defined in Section 4.5 of Seller's Rate Schedule FT.

Transco states that this sentence only addresses the minimum delivery pressure obligation and it does not affect in any way Transco's obligation to deliver the contractually specified MHQ.

15. The Commission finds that Transco's explanations address the Commission's concerns in regards to MHQ and minimum pressure rights for shippers requesting FDLS service at primary points on the lateral. However, these clarifications leave unexplained the MHQ and minimum pressure rights for shippers scheduling FDLS service at secondary points on the lateral. For example, it is unclear whether Transco intends to require an FDLS shipper to take deliveries at a secondary point on a uniform hourly basis, or whether the shipper could, in any hour, take deliveries at a secondary point up to the MHQ listed in its service agreement, pursuant to the same conditions as applicable at the primary delivery point. The Commission directs Transco to clarify a shipper's MHQ and delivery pressure rights in the event that a nomination is made for service at a secondary receipt point on the lateral under Rate Schedule FDLS, and submit revised tariff sheets, which propose tariff language that incorporates these clarifications into all applicable provisions of its Rate Schedule FDLS.

The Commission orders:

- (A) The Commission accepts the clarifications provided by Transco in this proceeding in compliance with the June 26 Order.
- (B) The Commission changes the end of the suspension period to the date of this order.
- (C) Consistent with section 154.206 of the Commission's regulations, Transco must file a motion to place the suspended tariff sheets into effect. When it files this motion, it should file (i) revised tariff sheets that remove section 8 of Rate Schedule IDLS, and (ii) proposed tariff language clarifying shippers' MHQ and minimum pressure rights at secondary points, consistent with the discussion in the body of this order.
- (D) The Commission accepts Transco's tariffs sheets, subject to Transco filing revised tariff sheets, as discussed in the body of this order, and reduces the suspension period, subject to Transco filing a motion to place the suspended tariff sheets into effect.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.