

111 FERC ¶ 61,019  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeen G. Kelly.

Transcontinental Gas Pipeline Corporation

Docket No. CP04-396-001

ORDER DENYING REHEARING

(Issued April 13, 2005)

1. On March 14, 2005, the Township of Bordentown in the County of Burlington, New Jersey (Bordentown or Township) filed a request for rehearing of the Commission's February 10, 2005 Order in this proceeding.<sup>1</sup> The February 10 Order granted Transcontinental Gas Pipeline Corporation (Transco) a certificate for its Central New Jersey Expansion Project. The Commission found that the project is in the public interest since it will add firm transportation capacity to serve increased market demand, while avoiding unnecessary disruptions of the environment. For the reasons discussed, we are denying Bordentown's request for rehearing.

**I. Background**

2. Transco's natural gas pipeline system extends from Texas to its terminus in the New York City metropolitan area. The February 10 Order granted Transco the authority to construct and operate 3.77 miles of new 36-inch diameter pipeline looping facilities, from Mile Post 15.55 to Mile Post 19.32, completing a loop of Transco's entire Trenton-Woodbury Line in Burlington and Mansfield counties. The added capacity will enable Transco to provide an additional 105,000 Dth/d of firm transportation capacity to serve increased market demand on the local distribution system of South Jersey Gas Company (South Jersey). The February 10 Order found that without this project, Transco's existing facilities would not have sufficient capacity to maintain pressure commitments to Transco's existing customers while providing the additional natural gas transportation service requested by South Jersey.

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<sup>1</sup> *Transcontinental Gas Pipeline Corporation*, 110 FERC ¶ 61,115 (2005). Bordentown filed a timely intervention in this proceeding. Thus, Bordentown's intervention was automatically granted pursuant to Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214. On March 21, 2005, Congressman Christopher H. Smith of New Jersey filed a letter in support of Bordentown's request for rehearing.

3. Bordentown owns several tracts of lands that are administered under the Green Acres Open Space Program in New Jersey. Three of Bordentown's properties, designated as Tracts OS-2, OS-3, and OS-4, are located on the east side of the New Jersey Turnpike. A portion of Tract OS-2 will be crossed by the new pipeline facilities authorized by the Commission's February 10 Order.

## **II. Request for Rehearing**

4. Bordentown asserts that while the February 10 Order states that Transco had settled with all affected property owners, Transco has not settled or worked cooperatively with Bordentown.<sup>2</sup> Bordentown argues that Transco has failed to address many of the issues raised by members of the Bordentown Township Committee at a Township Committee meeting on December 6, 2004, concerning the \$5 million cost of the county to purchase Tract OS-2, the effect of Transco's project on the Township's quality of life, and the possible future relocation of Transco's pipeline facilities (as well as other pipelines in the same right of way) if the New Jersey Turnpike Authority (NJTA) decides to widen the turnpike within Bordentown.<sup>3</sup> Bordentown asserts that widening the turnpike could further encroach on Bordentown's land, which the Township had planned to develop for active recreational uses for its residents. Bordentown contends that Transco's project will displace large trees of unspecified species in the intended right of way on Tract OS-2 and that Transco will deny responsibility for repair of homes should damage occur in the construction process.

## **III. Discussion**

5. The February 10 Order stated that Transco worked cooperatively with landowners and negotiated mutually agreeable settlements with all affected landowners.<sup>4</sup> Bordentown contends that Transco's negotiations were inadequate. While Bordentown was not satisfied with the results of its negotiations with Transco, Bordentown has not presented any evidence that Transco did not negotiate in good faith and make every reasonable effort to accommodate the wishes of Bordentown.

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<sup>2</sup> Bordentown's request for rehearing referenced, but omitted, an appendix listing the names and complaints of residents in Springfield Township concerning a different Transco project. This information is irrelevant to Transco's project in Bordentown.

<sup>3</sup> On December 1, 2004, Acting Governor Codey of New Jersey issued a press release announcing an 18-month engineering/design study to expand 20.1 miles of the New Jersey Turnpike between Middlesex and Burlington Counties.

<sup>4</sup> 110 FERC ¶ 61,115 at P 14.

6. Bordentown's complaints make it clear that, from its point of view, the only satisfactory resolution would be for Transco to not go forward with its project. The February 10 Order concluded, however, that the overall benefits of Transco's project outweigh any adverse environmental effects. The approved route avoids or minimizes impacts to residences and open space properties, and follows existing rights-of-way corridors to the extent practicable. We continue to believe the approved route is the best route through Bordentown. In reaching this finding, the Commission took into account the National Environmental Policy Act (NEPA) analysis prepared for Transco's proposal. The February 10 Order requires Transco's compliance with environmental conditions which will mitigate any adverse effects of Transco's project on landowners.

7. Bordentown asserts that the project will disrupt its plans for recreational facilities on its open space land. The project would cross part of Tract OS-2, the open space parcel closest to the New Jersey Turnpike. We note that the project would be within an existing utility corridor, consisting of two electric transmission towers and two underground utilities, already transecting Tracts OS-2 and OS-4. The Township would not be able to build permanent structures within the existing utility corridor through Tract OS-2, but it would be able to use that open space for passive recreation in its overall planning. Tracts OS-3 and OS-4 are near, but not within, the proposed pipeline right of way and may support the construction of recreational facilities. The land use for the construction access road on Tract OS-3 will be returned to its previous use after construction is completed, and the impacts of the construction access road will be temporary. Transco's project will not prevent the Township from developing Tracts OS-2, OS-3 and OS-4 for recreational purposes as described above.

8. Bordentown contends that the February 10 Order fails to adequately protect landowners and trees. The February 10 Order, however, approved Transco's preferred project route (over five others) because it follows existing transmission rights of way for most of its length, while minimizing impacts on residential and business tracts, lands that are managed under the Green Acres Program, and forested areas. Transco customarily attempts to preserve large trees located on the edge of the construction right of way, but generally must remove trees that grow within 25 feet of the pipeline. We note that easement agreements between Transco and affected landowners address issues of damages incurred during the construction process, including restoration of trees damaged during the construction process. Property owners can negotiate for plantings of trees of the same or similar species to replace those lost during construction. It is common industry procedure to fully compensate the landowner for the market value of trees or to replant trees during the restoration phase of the project, where allowed.

9. At the December 6, 2004 meeting of the Bordentown Township Committee, Transco explained that it had provided plans to the NJTA, and the NJTA had not reciprocated with specifics of their expansion requirements in Bordentown. While the NJTA had indicated in its correspondence that Transco's pipeline expansion would interfere with a one-mile segment of the NJTA's planned expansion in Mansfield

Township,<sup>5</sup> the NJTA did not specify any conflicts with Transco's expansion in Bordentown. The New Jersey Acting Governor's press release indicates that turnpike expansion in Bordentown is a long-range possibility that has not yet been adequately studied. Neither the Commission nor Transco can speculate where or when the NJTA expansion would occur, and no further public information is available at this time. It would be premature for the Commission to anticipate decisions of the NJTA in making its public interest findings with respect to Transco's proposed project in this proceeding.

10. Bordentown contends that other pipeline suppliers could provide the service to South Jersey without causing the negative impact that will be caused by Transco's project. Transco and South Jersey contracted because the project met their business objectives. We are in no position to compare the feasibility of alternative pipelines that potentially could serve South Jersey. As we stated in by-pass proceedings, the Commission will not second-guess the business decision of an LDC to change its pipeline supplier.<sup>6</sup> This request for rehearing is denied.

The Commission orders:

Bordentown's request for rehearing is denied.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>5</sup> The February 10 Order gives the Director of the Office of Energy Projects the delegated authority to make route changes before construction commences. In a letter dated March 15, 2005, the Director granted Transco's request to realign the route segment located between MP 18.30 and MP 19.32.

<sup>6</sup> See, e.g., *Southern Natural Gas Co.*, 79 FERC ¶ 61,280 at 62,209 (1997).