

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. TM99-6-29-009

ORDER TERMINATING PROCEEDING ON REMAND

(Issued June 1, 2005)

1. This proceeding is on voluntary remand from the United States Court of Appeals for the District of Columbia Circuit in Case No. 04-1042, *Brooklyn Union Gas Co., et al. v. FERC*. On April 5, 2005, the KeySpan Delivery Companies (KeySpan),¹ the Municipal Gas Authority of Georgia (MGAG) and the Transco Municipal Group (collectively, the Petitioners) filed, *inter alia*, requests that the Commission issue an order terminating the instant remand proceedings. On April 6, Transcontinental Gas Pipeline Corporation (Transco) also filed, *inter alia*, a request that the instant remand proceedings be terminated. For the reasons discussed below, the Commission will grant the Petitioners' and Transco's requests and terminate the instant proceedings.

Background

2. The Petitioners state that the remand proceedings in this docket result from a November 29, 2004 Order of the United States Court of Appeals for the District of Columbia Circuit in Case No. 04-1042, *Brooklyn Union Gas Co., et al. v. FERC*. In that proceeding, Petitioners sought judicial review of certain Commission orders issued in this docket.² Petitioners challenged the Commission's decisions to require Transcontinental Gas Pipe Line Corporation (Transco) to recover certain fuel quantities attributable to its prior period accounting and measurement errors on a volumetric ("in-kind") basis over a seven year period. After Petitioners submitted their Initial Brief to the Court, the

¹ The KeySpan Delivery Companies are comprised of the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York; KeySpan Gas East Corporation d/b/a/ KeySpan Energy Delivery Long Island; and Boston Gas Company, Colonial Gas Company, EnergyNorth Natural Gas, Inc., and Essex Gas Company, all subsidiaries of KeySpan Corporation.

² The Commission Orders appealed were: *Transcontinental Gas Pipe Line Corp.*, 105 FERC ¶ 61,268 (2003); *Transcontinental Gas Pipe Line Corp.*, 105 FERC ¶ 61,040 (2003); *Transcontinental Gas Pipe Line Corp.*, 101 FERC ¶ 61,012 (2002); and *Transcontinental Gas Pipe Line Corp.*, 93 FERC ¶ 61,114 (2000).

Commission filed a consent motion with the Court requesting a voluntary remand so the Commission could again consider Petitioners' claims.

3. On November 29, 2004, the Court granted the Commission's consent motion, placed the appeal in abeyance, and remanded the record to the Commission for further proceedings. Subsequently, on January 18, 2005, the Petitioners filed a Motion For A Prompt Resolution of Remanded Proceedings with the Commission and on February 2, 2005 Transco filed an answer to this motion.

4. The Petitioners state that subsequent to their filing of their January 18, 2005 Motion, they have determined that they no longer wish to contest the Commission Orders for which they sought judicial review in D.C. Circuit No. 04-1042. Therefore, the Petitioners state that pursuant to Rule 216 they submitted a notice of withdrawal of their January 18, 2005 Motion.³ As stated above, Transco also moved to withdraw its Answer to the Petitioners' motion.

5. Petitioners and Transco also request that the Commission issue an order terminating the remand proceedings in this docket. Transco also requests that the contested orders remain unmodified. Petitioners and Transco assert that because there are no other parties contesting the Commission's prior Orders, termination of the current proceedings is appropriate. Petitioners state that, upon a final order no longer subject to rehearing that terminates the remanded proceedings in this docket, Petitioners will move to dismiss Case No. 04-1042 in the United States Court of Appeals for the District of Columbia Circuit, with prejudice. The Petitioners state that if their motion for dismissal is granted, there will no longer be any challenge to the orders under review before the Commission or the Court.⁴

³ 18 CFR § 385.216 (2004).

⁴ Pursuant to Rule 216 of the Commission's regulations (18 CFR § 385.216 (2004)) any participant who has filed a timely motion to intervene which has not been denied may seek to withdraw a pleading by filing a notice of withdrawal. If within 15 days of the filing of the notice, no motion in opposition is filed and the decisional authority does not issue an order disallowing the withdrawal within that 15 day period, the withdrawal is effective. In the instant proceeding, the requisite 15 day time period has passed since the filing of the subject notices, without opposition, and the Commission finds no reason to disallow the withdrawal of either notice. Accordingly, the withdrawal of Petitioners' January 18, 2005 Motion and Transco's February 2, 2005 Answer is effective.

Discussion

6. Both the Petitioners and Transco have requested that the remanded proceeding be terminated. Since the Petitioners and Transco are the only parties contesting the commission's orders in the instant proceeding and the Petitioners represent that they will move to dismiss their appeal of the orders under review in D.C. Cir. No. 04-1042 upon issuance of an order terminating the instant proceedings, the Commission finds the request of the Petitioners and Transco to be reasonable. Therefore, the Commission will terminate the remanded proceeding.

The Commission orders:

7. The remanded proceedings in the captioned docket are terminated as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.