

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Transwestern Pipeline Company

Docket No. RP03-546-000

ORDER ACCEPTING REPORT
ON REVISIONS TO SUPPLY POOLING POINTS LIST

(Issued October 13, 2004)

1. This order accepts a report filed by Transwestern Pipeline Company (Transwestern) notifying the Commission of changes to the Supply Pooling Points list on Transwestern's website. The report notes the elimination, for operational reasons beyond Transwestern's control, of thirty-one of Transwestern's receipt points associated with the Panhandle Supply Pool. The Commission is accepting the report as satisfying the reporting requirement set forth in section 4 of Rate Schedule SP-1 of Transwestern's FERC Gas Tariff. In addition, consistent with the Northern Natural Gas Company (Northern Natural) order issued simultaneously herein in Docket No. RP04-103-000, the Commission is denying the protesters' request that Northern Natural be required to modify its operations in order to continue facilitating service to Transwestern so as to avoid the elimination of receipt points at Transwestern's Panhandle Supply Pool. This order benefits customers by resolving an operational issue on Transwestern's system, while ensuring that Transwestern's shippers are not unduly discriminated against.

I. Background

2. On October 10, 2002, the Commission issued an order¹ in Transwestern's Order No. 637² compliance proceeding which, among other things, approved Rate Schedule

¹ Transwestern Pipeline Company, 101 FERC ¶ 61,026 (2002).

² Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, FERC Statutes and Regulations, Regulations Preambles July 1996-December 2000 ¶ 31,091 (February 9, 2000); *order on rehearing*, Order No. 637-A, FERC Statutes and Regulations, Regulations Preambles July 1996-December 2000 ¶ 31,099 (May 19, 2000); *order on rehearing*, Order No. 637-B, 92 FERC ¶ 61,062 (July 26, 2000); *aff'd in part and remanded in part*, Interstate Natural Gas Association of America v. FERC, 285 F.3d 18 (D.C. Cir. April 5, 2002).

SP-1 (Supply Pooling Service). Rate Schedule SP-1 provides that Transwestern must post on its website the list of physical receipt points associated with each supply pooling point and that Transwestern will file with the Commission any additions or deletions to the list of available points of service.

3. On December 17, 2003, the Commission acted under section 5 of the Natural Gas Act (NGA) and issued a show cause order to Northern Natural in response to protests filed in the instant proceeding.³ The Commission has now concluded its investigation in that proceeding and, simultaneously with the issuance of the instant order, the Commission is dismissing that Northern Natural proceeding, for reasons discussed in that order.⁴

II. Instant Filing

4. On July 10, 2003, Transwestern filed a report with the Commission, in compliance with the October 10, 2002 Order, reflecting the removal of thirty-one receipt points⁵ from Transwestern's Supply Pooling Points list on its website. Transwestern explains that the subject receipt points are located on the far eastern end of Transwestern's Panhandle Lateral. Transwestern states that this segment has been isolated from the rest of its system by a block valve since 1997. Transwestern states that the isolation was necessary because of differences in the operating pressure of the pipeline on either side of the block valve. Transwestern explains that gas receipts into the isolated portion of its system that were in excess of deliveries nominated to physical delivery points on this portion of the system were delivered by Transwestern allegedly by displacement with Northern Natural.⁶

³ Northern Natural Gas Company, 105 FERC ¶ 61,291 (2003).

⁴ See Northern Natural Gas Company, 109 FERC ¶ 61,056 (2004). (Docket No. RP04-103-000).

⁵ The thirty-one receipt points to be eliminated are located in either Oklahoma or Texas as listed in Attachment A to Transwestern's filing.

⁶ In its response in the RP04-103-000 proceeding, Northern Natural clarified that it was not providing a displacement service (for which it would have received a fee) but rather that service was being provided pursuant to an Operational Balancing Agreement with Transwestern (for which there was no fee).

5. Transwestern states that Northern Natural has advised Transwestern that, due to changes in the operation of the South-End of Northern Natural's system, Northern Natural is unable to continue its prior arrangement with Transwestern. Transwestern explains that, consequently, it must limit the volume of gas received into the isolated portion of its system to the quantity nominated for delivery off the isolated segment, and, therefore, eliminate certain receipt points from aggregation to the Panhandle Supply Pool. Transwestern states that these receipt points will remain active on its system, but solely for deliveries east of the block valve. Transwestern states that it has posted a notice on its website⁷ explaining how these points can be used in the future.

III. Notice, Interventions, and Protests

6. Public notice of Transwestern's filing was issued on July 16, 2003. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. §154.210 (2003)). Pursuant to Rule 24 (18 C.F.R. § 385.214 (2003)), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties.

7. Mewbourne Oil Company (Mewbourne), Duke Energy Field Services (Duke) and Strat Land Exploration Company (Strat Land) filed protests. Transwestern filed an answer to the protests. While the Commission's regulations do not permit the filing of answers to protests,⁸ the Commission may waive a rule. Here, the Commission will accept the answer because it provides additional information which aids in our decision making process.

8. None of the protesters are customers of Transwestern. Rather, Mewbourne is an independent producer, Duke operates sixteen of the thirty-one subject receipt points, and Strat Land operates an interconnection with Transwestern and delivers gas through another interconnection operated by Duke. Mewbourne contends that removal of the thirty-one receipt points would deprive Anadarko Basin producers, such as itself, as well as shippers, from continued access to markets west of the block valve that Transwestern's pipeline serves. Duke estimates that Transwestern's proposal will cost Duke and its upstream producers approximately \$2.5 million per year in new charges.⁹ Strat Land

⁷ <http://www.hottap.enron.com/index.jsp?companyName=TW&pg=notices> CR

⁸ 18 C.F.R. § 385.213 (2002).

⁹ Duke estimates that the proposal would result in approximately \$1.5 million in additional charges for transportation and fuel, and \$1 million in basin differentials from the forced sales to lower value markets on Northern's system.

states that firm shippers seeking to purchase supplies from these isolated facilities would be required to use their capacity on Transwestern to transport the gas to Northern Natural, and then contract separately with Northern Natural to return the gas to Transwestern for further transportation. Strat Land contends that by eliminating these points, which would otherwise be pooled at no charge to other points on the Transwestern system, Transwestern can now impose transportation fees for moving its gas to Northern Natural.

9. Strat Land protests Transwestern's unilateral action of eliminating these receipt points from service without prior Commission authorization. Strat Land argues that Transwestern's proposal violates the terms of the Commission's order approving Rate Schedule SP-1, which expressly requires Transwestern to file a limited NGA section 4 rate case to change pooling boundaries.¹⁰ Duke contends that Transwestern's proposal is inconsistent with the pro-efficiency goals underlying the Commission's policy requiring pipelines to offer functional pooling service. Duke argues that Transwestern has failed to explain why Northern Natural is unable to continue providing what Transwestern's filing characterizes as displacement service or how such service may impact Transwestern's shippers.

10. Mewbourne disputes Transwestern's characterization of the operating pressure of the affected facilities as being lower pressure. Mewbourne contends that itself and other third parties have installed and operate compression facilities that enable their gas to be delivered into Transwestern's far eastern facilities at high pressure. Duke states that it may be willing to assist Transwestern in taking steps necessary to ensure that the pooling services continue to be available. Strat Land states that it is willing to install the additional compression needed to make deliveries west of the block valve, were the block valve to be removed.

11. Based upon the foregoing arguments, Duke requests that Transwestern's proposal be rejected outright, or, in the alternative, suspended for five months subject to the outcome of a technical conference. Mewbourne and Strat Land request that the Commission set the issue for hearing or convene a technical conference to: (1) examine the facts, and (2) investigate why Transwestern either declines or is unable to properly maintain its pipeline system to perform the functions for which it was designed and built by removing the block valve obstacle and installing or reactivating compression facilities to enable all attached gas to flow to the west.

12. Transwestern responds that it is simply addressing the reality that since Northern Natural can no longer continue the alleged displacement due to changes in the operation of its system, the volumes received at the eastern receipt points cannot be delivered to

¹⁰ See Transwestern Pipeline Company, 101 FERC at 61,077-78 (2002).

western markets. Transwestern states that it will continue to receive volumes at the eastern receipt points and will deliver those volumes to all authorized delivery points east of the block valve. Transwestern states that none of the eastern receipt points at issue herein is a primary receipt point under any currently effective firm transportation agreement. Rather, the existence of the delivery arrangements provided additional flexibility to parties that transport gas on Transwestern on an interruptible basis. As a result, Transwestern argues that to the extent any of its firm customers wish to continue to transport volumes to western markets, they may do so by using their primary receipt points located west of the block valve. Transwestern states that if conditions on Northern Natural's system change such that Northern Natural is able to reactivate the delivery arrangement, Transwestern would immediately accept nominations for volumes to be received at the eastern receipt points and delivered to downstream markets.

13. Transwestern argues that absent prior delivery arrangement with Northern Natural, Transwestern would have to modify its facilities by removing the block valve and modifying two compressor stations upstream of the block valve. Transwestern argues that nothing in Mewbourne's pleading indicates that Mewbourne or any other party would be willing to reimburse Transwestern for those expenditures. Further, if the operating pressure on Transwestern's facilities increases significantly as a result of the above modifications, Mewbourne, as well as other producers and gatherers in the area, would have to expand or replace existing compression to compensate. Transwestern concludes that a hearing or technical conference will not change this. However, Transwestern states it is willing to jointly discuss and analyze ideas that may mitigate the impact to affected parties.

14. On August 22, 2003, a meeting was held among Transwestern, Mewbourne, Duke and Strat Land for the purpose of attempting to resolve the protested issues. Northern Natural was invited to this meeting, but declined to attend. While Transwestern provided additional information regarding its filing, nonetheless, Transwestern and the protesters agree that the meeting did not resolve the issues raised by the protesters.

IV. Discussion

15. Upon a review of the record, the Commission finds that none of the thirty-one receipt points at issue herein is a primary receipt point under any currently effective firm transportation agreement. Consequently, none of Transwestern's firm shippers will be unduly harmed by the removal of the eastern receipt points at issue herein. To the extent any of its firm shippers wish to continue to transport volumes to western markets, they may do so by using their primary receipt points located west of the block valve. While interruptible service on Transwestern's system may be affected by the removal of such eastern receipt points from pooling, shippers that contract for this type of transportation service assume the risk that this type of service may be interrupted.

16. With respect to the protests, as stated above, the Commission acted under section 5 of the NGA and issued a show cause order to Northern Natural for the purpose of determining why Northern Natural will no longer provide the delivery arrangement with Transwestern and whether its actions are unduly discriminatory. That proceeding allowed for a thorough investigation of the circumstances and conditions surrounding the protested issues in the instant proceeding.

17. There, Northern Natural explained that it had not been providing a gas displacement service, as was characterized in the instant proceeding; but rather, its subject operations were pursuant to an Operational Balancing Agreement (OBA), dated February 1, 1994, with Transwestern. As explained in our Northern Natural order, where we are dismissing that proceeding, we conclude that the protests here should not be granted. If the protesters wish to obtain service on Northern Natural in order to facilitate further transportation of their gas to Transwestern's system, then they may do so by contracting with Northern Natural directly, as explained in our Northern Natural order.

18. Further, upon expiration of the OBA between Northern Natural and Transwestern, Transwestern is physically unable to provide transportation service to western markets from the referenced receipt points, absent new facilities or other transportation agreements with Northern Natural. Secondly, the protesters have not identified any currently effective contract held with a firm shipper serving western markets on Transwestern's system that has been harmed as a result of Transwestern's revision. Moreover, none of Transwestern's customers protested the revision.

19. The Commission finds that Transwestern has fully supported its proposal with proper explanation, to remove various receipt points located on the far eastern portion of its system from aggregation to the Panhandle Supply Pool. In addition, Transwestern's report satisfies the reporting requirement set forth in section 4 of Rate Schedule SP-1 of Transwestern's tariff. Specifically, section 4 requires Transwestern to file with the Commission any additions or deletions to the list of available supply pooling points of service. Section 4 of Rate Schedule SP-1 does not require Transwestern to file a limited NGA section 4 rate case to change pooling boundaries, as suggested by Strat Land and Mewbourne. Further, proper notice was provided for any party, including Strat Land and Mewbourne, to comment in this proceeding. Therefore, the Commission will accept Transwestern's report.

20. In view of the Commission's conclusion of its investigation in the Northern Natural proceeding, and the meetings between Transwestern and the protesters regarding the protested issues, as cited above, the Commission concludes that there would be nothing to be gained by convening a technical conference in this proceeding. For the above reasons, as explained in greater detail in our Northern Natural order issued simultaneously herein, the protests and the request for a technical conference are denied.

The Commission orders:

Transwestern's report is accepted, as satisfying the reporting requirement set forth in section 4 of Rate Schedule SP-1 of Transwestern's tariff.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.