

105 FERC ¶ 61,335
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Tennessee Gas Pipeline Company

Docket No. CP03-330-000

ORDER GRANTING CERTIFICATE
AND ABANDONMENT AUTHORITY

(Issued December 22, 2003)

1. On June 30, 2003, Tennessee Gas Pipeline Company (Tennessee) filed an application requesting authority, pursuant to Section 7(c) of the Natural Gas Act (NGA) for a certificate of public convenience and necessity to reacquire capacity held by Chevron U.S.A., Inc. (Chevron). Further, Tennessee requests authority, pursuant to Section 7(b) of the NGA, to abandon an associated interruptible transportation service under Rate Schedule T-139. We find that the requested authorizations are in the public interest because they will permit Tennessee and Chevron to consolidate their respective offshore gas facilities, as discussed herein.

Background

2. In orders issued in 1984,¹ the Commission authorized Tennessee to allocate firm pipeline capacity to Chevron's predecessor, Gulf Oil Exploration and Production Company, a Division of Gulf Oil Corporation (Gulf). Specifically, the Commission authorized Tennessee to allocate Gulf 50,000 Mcf per day of its capacity in the Project Sabine Pipeline,² and 30,000 Mcf of Tennessee's capacity entitlement in Transco's

¹Tennessee Gas Pipeline Co., 26 FERC ¶ 61,284 (1984), order amending certificate, 29 FERC ¶ 62,142 (1984).

²At that time, the offshore portion of the Project Sabine facilities was jointly owned by Tennessee and Florida Gas Transmission (FGT) while the onshore portion was jointly owned by Tennessee, FGT and Transcontinental Gas Pipe Line Corporation (Transco). Tennessee Gas Pipeline Co., *et al.*, 15 FERC ¶ 61,251 (1981), order amending certificate, 17 FERC ¶ 62,100 (1981), order amending certificate, 19 FERC ¶ 61,100 (1982).

Southwest Louisiana Gathering System (SWLGS),³ hereinafter referred to as the Capacity Entitlement.

3. Tennessee was authorized to provide firm transportation service for Gulf using the Capacity Entitlement to transport Gulf's gas from offshore receipt points through the Project Sabine Pipeline and SWLGS for delivery to Tennessee's onshore Kinder-Sabine line. For this firm service using the Capacity Entitlement, Tennessee was authorized to charge Gulf \$11,306,400, subject to change pending final compilation of cost data.⁴ Tennessee was also authorized to provide Gulf interruptible service on Kinder-Sabine for delivery to Texas Eastern Transmission Corporation's facilities in Allen Parish, Louisiana, for a volumetric charge under a new Rate Schedule T-139 applicable only to that service.⁵

4. In separate transactions, Tennessee constructed two eight-inch pipelines, Lines 524X-500⁶ and 524X-700,⁷ located in the Viosca Knoll area offshore Louisiana (VK Pipelines). Chevron has an ownership interest in the VK Pipelines.

5. Tennessee and Chevron have entered into an Agreement to Exchange Pipeline Assets (Agreement)⁸ in which Tennessee agrees to abandon by sale its interest in the VK Pipelines to Chevron in exchange for Chevron's rights, title and interest in the Capacity Entitlement. Tennessee states it and Chevron will execute the Agreement upon issuance of the Commission's order authorizing Tennessee's reacquisition of the Capacity Entitlement and abandonment of the associated T-139 rate schedule and service.

³In 1982, the Commission authorized Transco, Tennessee and FGT to build looping on SWLGS to add 870,000 Mcf per day of jointly-owned capacity to the pipeline. *Transcontinental Gas Pipe Line Corp. et al.*, 19 FERC ¶ 61,100.

⁴26 FERC at 61,644.

⁵Rate Schedule T-139 was located at Tennessee's FERC Gas Tariff, Original Vol. No. 2, Original Sheet Nos. 1401 through 1404 and 1406 through 1410 and Substitute First Revised Sheet No. 1405.

⁶Tennessee Gas Pipeline Co., 57 FPC ¶ 61,405 (1977).

⁷Tennessee Gas Pipeline Co., 2 FERC ¶ 61,161 (1978).

⁸Exhibit U to the application.

Details of the Filing

6. In its filing Tennessee requests the Commission to approve and authorize Tennessee's reacquisition of the Capacity Entitlement and to authorize abandonment of the associated, but no longer active, interruptible transportation service formerly provided to Gulf under Rate Schedule T-139.

7. Tennessee states that the reacquisition of the Capacity Entitlement and the abandonment of Tennessee's Rate Schedule T-139 transportation service are in the public interest because they will facilitate Chevron's and Tennessee's plans to consolidate their respective offshore holdings.

8. Tennessee further submits that reacquisition of the Capacity Entitlement and the abandonment of the associated Rate Schedule T-139 and service will not result in any adverse environmental impact because no facilities will be constructed or removed.

9. Once the requested authorizations are granted, Tennessee states that it will execute its Agreement with Chevron to abandon by sale its interest in the VK Pipelines in exchange for Chevron's transfer of its capacity in Tennessee's Project Sabine Pipeline. Tennessee states that abandonment by sale of its interest in the VK Pipelines qualifies for blanket certificate treatment because they are inactive supply laterals that have not flowed gas in the last 12 months.

Notice and Comment

10. Notice of Tennessee's application was published in the Federal Register on August 1, 2003 (68 FR 43235) with interventions due on August 8, 2003. Timely interventions were filed by Nashville Gas Company, Atmos Energy Corporation, ProLiance Energy, LLC, and Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. (Con Edison). Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(a)(3)(2003). No protests were filed. However, Con Edison requests clarification that (1) Tennessee's reacquisition of the Capacity Entitlement will have no impact on Tennessee's rates in its next rate case, and (2) the Commission's approval of that reacquisition will not prevent Con Edison from questioning, in Tennessee's next rate case, whether the facilities that provide the reacquired capacity perform a transmission or gathering function.

11. Con Edison explains that Tennessee has advised it that the facilities providing the Capacity Entitlement were never removed from Tennessee's rate base and that cost of service associated with those facilities remained part of the justification for Tennessee's rates. Thus, Tennessee has informed Con Edison that the reacquired Capacity Entitlement will have no impact on Tennessee's rates in its next general rate proceeding

even though it has no known customer for the capacity. Con Edison states that it does not oppose the additional capacity as long as the Commission clarifies that the reacquisition will not have any impact on Tennessee's rates.

12. Con Edison has been further advised that Tennessee believes that the primary function of both the Project Sabine Pipeline and SWLGS is transmission, as opposed to gathering, and that the cost of service underlying these facilities is properly allocated to Tennessee's transmission customers. Con Edison requests clarification that it may challenge the functionalization of these facilities in Tennessee's next rate case.

Discussion

13. The Commission finds that granting the requested Section 7(c) authorization is in the public interest. There are no protests to the approval of this proposal. Further, there are no accounting, environmental, engineering or rate issues involved in approving this proposal. Tennessee's reacquisition of the Capacity Entitlement will consolidate its offshore holdings and increase the capacity that is available to Tennessee's shippers on facilities that are owned and operated by Tennessee. Chevron will shed capacity that it no longer needs and, in exchange, will receive Tennessee's ownership share of the VK Pipelines, thereby consolidating Chevron's holdings in those facilities. Because Chevron will be transferring the Capacity Entitlement to Tennessee, it will no longer need the associated Rate Schedule T-139 service to transport its gas. Accordingly, we find that abandonment of Rate Schedule T-139 and all service thereunder is in the public interest.

14. Based on Tennessee's assurances as represented by Con Edison, Tennessee's reacquisition of the Capacity Entitlement will not cause an increase in its rates. In any event, when Tennessee files its next general rate case, Con Edison will have the opportunity to intervene and challenge any cost items or rate design principles underlying the rates Tennessee proposes. Thus, we clarify that in Tennessee's next rate case Con Edison may raise the issue of whether the facilities perform a transmission function and, if so, the appropriate rate treatment of the associated costs.

Environment

15. An environmental review of this proposal under section 380.4(b) of the Commission's regulations confirms that this action qualifies as a categorical exclusion under section 380.4(a)(27) of the Commission's regulations⁹ because, as noted above, no facilities will be constructed or removed.

⁹18 C.F.R. § 380.4 (2003).

Conclusion

16. For the reasons discussed above, and with the conditions imposed by this order, the Commission concludes that Tennessee's certificate and abandonment authorizations requested herein are required and permitted by the public convenience and necessity.

17. At a hearing held on December 17, 2003, the Commission on its own motion received and made part of the record all evidence, including the application and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity under NGA section 7(c) is issued to Tennessee, authorizing the re-acquisition of the Capacity Entitlement as described herein and in the application.

(B) Tennessee is granted permission and approval to abandon Rate Schedule T-139 and all service thereunder subject to compliance with Part 154 of the Commission's regulations within 30 days of the date of this order.

(C) The certificate granted in paragraph (A) above is granted conditioned upon Tennessee's compliance with paragraphs (a), (d), (e), and (f) of section 157.20 of the Commission's regulations and all other applicable regulations under Parts 154, 157, and 284.

(D) Con Edison's requests for clarification are granted as discussed herein.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.