

128 FERC ¶ 61,255
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Transcontinental Gas Pipe Line Company, LLC

Docket No. CP09-88-000

ORDER DENYING PROTEST AND AUTHORIZING CONSTRUCTION

(Issued September 17, 2009)

1. On March 31, 2009, Transcontinental Gas Pipe Line Company, LLC (Transco) filed a prior notice request pursuant to section 7 of the Natural Gas Act (NGA) and section 157.205 of the Commission's blanket certificate regulations¹ to construct and operate under Transco's Part 157 blanket certificate two bidirectional interconnections to allow Transco to receive and deliver natural gas from and to the new Elba Express pipeline system.
2. Washington Gas Light Company (Washington Gas) filed a protest to Transco's prior notice filing. Because Washington Gas did not withdraw the protest within the time specified in section 157.205(f) of our regulations, the Commission will review Transco's filing as a case-specific certificate application.² For the reasons discussed below, the Commission will deny Washington Gas' protest and authorize Transco to construct and operate the proposed facilities under its Part 157 blanket certificate.

Background and Proposal

3. Transco is a natural gas company with a transmission system extending from Texas, Louisiana, Mississippi, and offshore Gulf of Mexico through the States of Alabama, Georgia, South Carolina, North Carolina, Virginia, Maryland, Pennsylvania, and New Jersey to its termini in the New York City metropolitan area.
4. On September 20, 2007, the Commission issued an order approving the expansion of Southern LNG Inc.'s (Southern LNG) liquefied natural gas (LNG) storage terminal at Elba Island, Georgia, and authorizing Elba Express Company, L.L.C. (Elba Express) to construct and operate a new approximately 189-mile long pipeline system from an

¹ 18 C.F.R. § 157.205 (2009).

² 18 C.F.R. § 157.205(f) (2009).

interconnection with Southern Natural Gas Company's (Southern) Twin 30s pipelines near Port Wentworth, Georgia to interconnections with Transco in Hart County, Georgia and Anderson County, South Carolina.³ The Twin 30s pipelines connect Southern LNG's storage terminal to the rest of Southern's system near Port Wentworth. Upon completion of these facilities, Elba Express will be able to provide 1,175 MMcf per day of firm transportation capacity service from Southern LNG's Elba Island terminal to the interconnections with Transco.

5. In this proceeding, Transco proposes to construct and operate two bidirectional interconnections on its mainline system to allow it to receive natural gas from Elba Express' pipeline, which will deliver regasified LNG from Southern LNG's Elba Island terminal. Transco will be able to receive up to 1,175 MMcf per day of regasified LNG at the proposed Elba Express-Georgia Interconnection, which will be located at Transco milepost 1148.20 in Hart County, Georgia.⁴ Transco will also be able to receive up to 1,175 MMcf per day at the Elba Express-South Carolina Interconnection, which will be located at Transco milepost 1149.0 in Anderson County, South Carolina.⁵ Each interconnection will be bidirectional so that Transco will be able to deliver gas supplies into the Elba Express system, as well as receive them from Elba Express. In the area of the proposed interconnects, Transco's system consists of four parallel pipelines, designated as A, B, C, and D. Transco intends to interconnect three of the four lines with Elba Express at the Elba Express-Georgia Interconnection and all four lines at the Elba Express-South Carolina Interconnection. In addition, at the Elba Express-South Carolina Interconnection, Transco will construct a 262-foot long mixing header and eight mainline tie-ins to thoroughly mix the Elba Express gas stream with that already flowing in Transco's mainlines.

6. Transco estimates the cost of the new facilities to be approximately \$25.3 million. Transco states that Elba Express will reimburse Transco for all costs associated with the facilities. Transco avers that the new facilities will enable Transco to provide its customers access to an additional source of gas supply to meet increasing demand.

³ See *Elba Express Company, LLC*, 119 FERC ¶ 61,015 (2007), *order issuing certificates sub nom. Southern LNG, Inc.*, 120 FERC ¶ 61,258 (2007), *order denying reh'g and granting reconsideration*, 122 FERC ¶ 61,137 (2008).

⁴ The Elba Express-Georgia Interconnection is located in Transco's Rate Zone 4.

⁵ The Elba Express-South Carolina Interconnection is located in Transco's Rate Zone 5.

Notice, Interventions, and Other Pleadings

7. On April 14, 2009, the Commission issued a notice of Transco's prior notice request in accordance with section 157.205(d) of the Commission's regulations.⁶ The Commission's notice was published in the *Federal Register* on April 21, 2009 (74 FR 18217). Pursuant to section 157.205(d) of the regulations, the deadline for the filing of interventions and protests in response to a prior notice filing was 60 days following the date of issuance of the notice.

8. Pursuant to section 157.205(h) of our regulations, authorization to construct and operate qualifying facilities under a blanket certificate is automatic so long as no protests to the activity are filed within 60 days of the date notice is issued by the Commission. If a protest is filed within the 60-day period and it is not withdrawn within 30 days after the 60-day notice period, the prior notice request proceeds as an application under section 7(c) of the NGA for case-specific authorization.⁷

9. Within the 60-day notice period, timely, unopposed motions to intervene were filed by PECO Energy Company, South Carolina Electric & Gas Company, Statoil Natural Gas LLC, National Fuel Gas Distribution Corporation, National Grid Gas Delivery Companies, Piedmont Natural Gas Company, Inc., Consolidated Edison Company of New York and Philadelphia Gas Works (jointly), Southern LNG, Shell NA LNG LLC (Shell), and Washington Gas.⁸ Southern LNG and Shell filed statements in support of Transco's proposal.

10. Dominion Cove Point LNG, LP (Cove Point) filed a motion to intervene out-of-time. Cove Point has shown an interest in this proceeding, and its participation will not delay the proceeding or prejudice the rights of any other party. Accordingly, for good cause shown, we will permit Cove Point's late intervention.⁹

11. Washington Gas protested Transco's application. Transco and Elba Express each filed answers to Washington Gas' protest. Although the Commission's Rules of Practice and Procedure do not permit answers to protests,¹⁰ our rules do provide that we may, for

⁶ 18 C.F.R. § 157.205(d) (2009).

⁷ 18 C.F.R. § 157.205(f) (2009).

⁸ Timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c) of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214(c) (2009).

⁹ 18 C.F.R. § 385.214(d) (2009).

¹⁰ 18 C.F.R. § 385.213(a)(2) (2009).

good cause, waive this provision.¹¹ We find good cause to do so in this instance because the Transco and Elba Express pleadings provide information that will assist us in our decision making.

12. The deadline for filing protests was June 19, 2009, and the 30-day reconciliation period provided for under section 157.205(g) ended July 20, 2009. Washington Gas did not withdraw its protest by that date. Therefore, pursuant to section 157.205(f) of our regulations we will treat Transco's prior notice request as an application for case-specific certificate authority.¹²

Discussion

13. Because the proposed facilities will be utilized to provide transportation of natural gas in interstate commerce, they are subject to section 7(c) of the NGA and to the Commission's regulations.

Certificate Policy Statement

14. The Certificate Policy Statement provides guidance as to how we will evaluate proposals for new construction.¹³ The Certificate Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Certificate Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, we balance the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing customers, the applicant's responsibility for unsubscribed capacity, the avoidance of unnecessary disruptions to the environment, and the avoidance of the unnecessary exercise of eminent domain in evaluating new pipeline construction.

15. Under the Certificate Policy Statement, the threshold requirement for pipelines proposing new projects is that the pipeline must be prepared to financially support the project without relying on subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicant's existing customers, existing pipelines in

¹¹ 18 C.F.R. § 385.101(e) (2009).

¹² See, e.g., *Kinder Morgan Interstate Gas Transmission LLC*, 123 FERC ¶ 61,018, at P 7 (2008).

¹³ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128 (2000), *order on clarification*, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified after efforts have been made to minimize them, we will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when the benefits outweigh the adverse effects on economic interests will we proceed to complete the environmental analysis where other interests are considered.

16. Transco's proposed interconnect with Elba Express will cost \$25.3 million, which will be reimbursed by Elba Express. No construction costs will be passed through to any existing customer. Thus, the threshold requirement that existing shippers not subsidize the expansion facilities will be satisfied.¹⁴ The proposed facilities have been designed to transport a new source of gas. Therefore, Transco's proposal will not replace any firm transportation service on any other existing pipeline and will not adversely impact other pipelines or their customers. Further, the proposed facilities will have only minimal impact on landowners and the environment. No landowners have protested or filed comments on the interconnection proposal.

17. Washington Gas contends that the proposals will adversely affect it, an existing customer of Transco. We will consider this issue below.

Washington Gas' Protest

18. Washington Gas, which is engaged primarily in the retail sale and delivery of natural gas in the District of Columbia and surrounding areas of Maryland and Virginia, is concerned that regasified LNG entering its distribution system from Transco's system could damage mechanical pipeline couplings in the Fairfax County and Centreville, Virginia area. Washington Gas asserts that regasified LNG from the Cove Point pipeline system has caused leaks to its system in Maryland, and that it has taken steps to limit the introduction of regasified LNG from Cove Point or from the three interstate pipelines, including Transco, currently interconnected with Cove Point. Washington Gas states that it has worked with Transco to avoid the receipt of Cove Point regasified LNG at its gate stations on the Transco system. Washington Gas alleges that by transporting the regasified LNG from Elba Express as part of a mixed gas stream, Transco will be eliminating or severely curtailing a domestic-only supply option.

¹⁴ As discussed below, we are ultimately authorizing Transco herein to construct and operate the proposed facilities under its Part 157 blanket certificate. Accordingly, to the extent Transco does incur costs associated with the operation of these facilities, they are presumed to be appropriately rolled in to existing rates. *See CenterPoint Energy Gas Transmission Co.*, 121 FERC ¶ 61,180 (2007).

19. Washington Gas states that the delivery of regasified LNG from Transco may require it to add gas conditioning facilities at the Herndon and/or Bull Run gate stations in Virginia, as it has done at gate stations in Maryland. In the Bull Run gate station area, it might alternatively need to implement a targeted mechanical coupling replacement program on main lines and service lines in the area served by that station. Washington Gas suggests that Transco could alleviate the necessity for such costly construction on Washington Gas' part by restricting the flow of regasified LNG into the Washington Gas system.

20. Washington Gas asserts that to protect the public safety, the Commission may need to require Transco to isolate the flow of regasified LNG to specified Transco lines not interconnecting with Washington Gas. Washington Gas contends that Transco has not shown that the benefits from the project will outweigh the potential harm. Moreover, contends Washington Gas, Transco has not fulfilled its responsibility under the Commission's Certificate Policy Statement to make efforts to eliminate or minimize any adverse effects from the project on existing customers. Washington Gas requests that the Commission prepare an environmental impact statement or environmental assessment to consider the health effects of the introduction of regasified LNG from Elba Express through the Transco system into the Washington Gas distribution system.

Answers to Protest

Transco

21. Transco acknowledges that, at the present time, its three interconnections with Washington Gas are configured to receive gas only from its Lines A and B, which do not transport gas received from Cove Point's system. Transco avers, however, that this is an informal operating arrangement intended to accommodate Washington Gas, but only to the extent operating conditions permit. If operating conditions should change, one or more of the Transco/Washington Gas interconnections might have to receive gas from Lines C and/or D. Transco states that Washington Gas' suggestions – isolating the Elba Express regasified LNG to Transco's Lines C and D only, or requiring Transco to modify its compressors or other physical plant to permit regasified LNG to flow to fewer than all four lines – are unrealistic and cost prohibitive because they do not recognize the physical realities of Transco's integrated system. Transco avers that it would be required to make extensive changes to its pipeline system between the proposed Elba Express interconnects and Washington Gas' city gate delivery points that would require Transco's pipeline to be taken out of service for extended periods of time and likely require more facilities than are currently necessary to transport the quantities of gas for which it has contracts.

Elba Express

22. Elba Express notes that the proposed Elba Express/Transco interconnections are a small part of a much larger project that has already been approved by the Commission. Elba Express asserts that any concerns regarding the future quality of the gas on Transco's system should have been raised in the Elba III Project proceeding, as Washington Gas and other interested parties were provided clear notice in that case that the Commission was reviewing a proposal that would result in the delivery of regasified LNG into the Transco system.

23. In any case, contends Elba Express, the Commission has already addressed and rejected Washington Gas' argument regarding the alleged damage to mechanical couplings on its system from the introduction of regasified LNG from the Cove Point system. Elba Express states that Washington Gas has presented no new evidence to support its claim that the introduction into its system of regasified LNG from the Elba Island terminal will cause an increase in leaks on mechanical couplings.

Commission Finding

24. The fact that Transco would be interconnecting with Elba Express and receiving regasified LNG at the facilities proposed here was clearly identified as an integral part of the overall project comprising the expansion of Southern's LNG's Elba Island terminal (Elba III) and the construction of the Elba Express pipeline system. In its application, Elba Express proposed, among other things, specifically to connect its pipeline to the Transco system in Hart County, Georgia and Anderson County, South Carolina.¹⁵ In authorizing the construction and operation of the Elba Express pipeline, we found that Elba Express had demonstrated that its project would benefit existing pipelines and their customers by providing additional access to LNG supplies and specifically found that the proposed interconnections between Elba Express and Transco would provide customers along the eastern seaboard access to Elba Island LNG supplies.¹⁶ The specific purpose of the minimal facilities proposed here is to effect the physical connection of the Elba Express and Transco pipelines previously authorized as required by the public convenience and necessity. Approval of these interconnection facilities is a necessary complement to our authorization of the Elba Express pipeline. The proceeding on that application (which included consideration of the proposed expansion of Southern LNG's

¹⁵ See Application, at 5, and Notice of Application, at 71 FR 61040 (Oct. 17, 2006).

¹⁶ *Elba Express Company, L.L.C.*, 119 FERC ¶ 61,015, at P 23 (2007).

Elba Island Terminal) would have been the appropriate forum for Washington Gas to have raised its objections to Transco's potential receipt and transportation of additional volumes of regasified LNG.

25. Nevertheless, we find no merit to Washington Gas' protest. In the Cove Point Expansion Project proceeding, we addressed at length the same contention that Washington Gas makes here, i.e., that receipt of regasified LNG has caused damage to its system, resulting in an increased number of leaks on its system. In that proceeding we found that Washington Gas' leaks were caused primarily by factors other than vaporized LNG.¹⁷ Specifically, we concluded that these other factors, namely the application of hot tar to the coupling seals as a means of corrosion control, the increase in operating pressures on Washington Gas' system, and colder temperatures, were primarily responsible for the leaks of which Washington Gas complained, and we explained that these leaks would not occur on a properly maintained system.

26. Washington Gas states that "[t]o protect the public interest in safety, [the Commission] must assure that a safe quality of gas is flowing onto the Washington Gas system."¹⁸ However, as the Commission made clear in its January 15, 2009 order in the Cove Point Expansion Project proceeding, responsibility for the safety of Washington Gas' system must ultimately rest with Washington Gas:

it is beyond the Commission's jurisdiction and ability to ensure that non-jurisdictional entities (e.g., local distribution companies) downstream of jurisdictional pipelines can safely accommodate gas volumes that will be transported by jurisdictional facilities authorized by the Commission. We can neither effectively monitor the physical and/or operational conditions for such entities, nor compel repairs or improvements when such are warranted, even for safety purposes.¹⁹

27. In addition, as is highlighted by Washington Gas' request in this proceeding, it is generally unreasonable for the Commission to impose restrictions on the operations of its jurisdictional entities in an effort to accommodate the idiosyncratic gas quality needs of

¹⁷ *Dominion Cove Point LNG, LP*, 115 FERC ¶ 61,337 (2006), *order on reh'g*, 118 FERC ¶ 61,007 (2007), *vacated and remanded, Washington Gas Co. v. FERC*, 532 F.3d 928 (D.C. Cir. 2008), *order on remand*, 125 FERC ¶ 61,018 (2008), *order on reh'g and clarification*, 126 FERC ¶ 61,036 (2009), *order denying stay*, 126 FERC ¶ 61,238 (2009).

¹⁸ Washington Gas Light Company, June 12, 2009 Motion for Leave to Intervene and Protest, at 7.

¹⁹ *Order on Rehearing and Clarification*, 126 FERC ¶ 61,036, at P 47 (2009).

individual shippers.²⁰ As noted above, the Transco pipeline system extends from the supply areas of the Gulf Coast through several states to its termini in the New York City metropolitan area. The Transco interconnects with Elba Express are over 500 miles from the Washington Gas system and no one raised an issue regarding the quality of the Elba Island gas supply in Elba III/Elba Express proceeding.²¹ Nevertheless, Washington Gas suggests that the Commission require Transco (presumably at the expense of all its customers) “to make revisions to its compressors or other physical plant [as necessary] to permit the flow of LNG to less than all four of its lines” to protect Washington Gas from having to “make substantial investments in its system in order to prepare to take receipt of gas” flowing in interstate commerce which meets the gas quality requirements of Transco and of all the pipelines with which Transco interconnects. In arguing that such a result would be in the overall public interest, Washington Gas gives no consideration to the potential impacts such a restriction on Transco’s operations might have on other shippers and end-users; implementing Washington Gas’ proposal might well reduce customers’ supply choices and impede a competitive market.²² Moreover, with respect to Washington Gas’ desire to maintain its “domestic supply option,” given the highly-integrated nature of the national gas grid, unless a shipper is directly-connected to its source of supply, it is virtually impossible to insure that it will receive the same supply molecules for which it contracted.

28. In conclusion, Washington Gas has not introduced any new evidence in this proceeding to further support its claims about the cause of damages to its system from regasified LNG and we find that the same reasoning articulated in the Cove Point Expansion proceeding applies to the facts of this proceeding. Thus, we will deny Washington Gas’ protest.

29. When we ultimately find that a protest to a prior notice request under the blanket certificate regulations should be dismissed or denied, it is our policy to authorize the

²⁰ Citing the Commission’s order in *Algonquin Gas Transmission, LLC*, 127 FERC ¶ 61,163 (2009), Washington Gas states that the Commission has indicated that it will consider evidence on negative impact of gas quality on the safety of LNG facilities. However, unlike Algonquin, Transco is not proposing any change to its gas quality specifications in this proceeding. Moreover, as described in the body, the Commission has already considered and rejected Washington Gas’ allegations that the regasified LNG was the primary cause for the leaks on its system.

²¹ We note that as part of this project, Transco will construct and operate facilities that will blend regasified LNG from Elba Express with domestic gas already in the Transco pipeline system.

²² See *Maritimes & Northeast Pipeline, L.L.C.*, 125 FERC ¶ 61,159, at P 27 (2008); *rehearing denied*, 126 FERC ¶ 61,119, at P 24 (2009).

construction and operation of the proposed facilities under the applicant's Part 157 blanket certificate, rather than grant redundant case-specific certificate authority.²³ Therefore, we will authorize Transco to construct the proposed interconnections under its Part 157 blanket certificate, as it proposed.

30. Because Transco will construct the interconnections under its Part 157 blanket certificate, Transco must comply with the environmental requirements set forth in section 157.206(b) of the regulations applicable to projects by pipelines under their Part 157 blanket certificates.²⁴ We find that, so long as applicant complies with these requirements, approval of the project in this order will not constitute a major federal action significantly affecting the quality of the human environment.

31. At a hearing held on September 17, 2009, the Commission, on its own motion, received and made a part of the record all evidence, including the application and exhibits thereto, submitted in support of the authorization sought here, and upon consideration of the record,

The Commission orders:

(A) Transco is authorized to construct and operate the facilities proposed in its March 31, 2009 prior notice request under its Part 157, Subpart, F blanket certificate.

(B) Washington Gas protest is denied.

(C) Cove Point's untimely motion to intervene is granted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

²³ See, e.g., *Kinder Morgan Interstate Gas Transmission LLC*, 123 FERC ¶ 61,018, at P 22 (2008) and *CenterPoint Energy Gas Transmission Company*, 121 FERC ¶ 61,180, at P 25 (2007).

²⁴ 18 C.F.R. § 157.206(b) (2009).