

130 FERC ¶ 61,118
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
and John R. Norris.

Transcontinental Gas Pipe Line Company, LLC

Docket No. CP09-88-001

ORDER DENYING REQUEST FOR RECONSIDERATION AND REHEARING

(Issued February 18, 2010)

1. On September 17, 2009, the Commission issued an order authorizing Transcontinental Gas Pipe Line Company, LLC (Transco) to construct and operate under Transco's Part 157 blanket certificate two bidirectional interconnections to allow Transco to receive regasified liquefied natural gas (LNG) into its system.¹ The September 17 Order denied a protest by Washington Gas Light Company (WGL). WGL filed a timely request for reconsideration or, in the alternative, for rehearing of the September 17 Order. For the reasons set forth below, we are denying WGL's requests.

Background

2. On September 20, 2007, the Commission issued an order approving the expansion of Southern LNG Inc.'s 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 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.² The Twin 30s pipelines connect Southern LNG's storage terminal to the rest

¹ *Transcontinental Gas Pipe Line Company, LLC*, 128 FERC ¶ 61,255 (2009) (September 17 Order).

² 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) (*Elba Express*). The

(continued...)

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 service from Southern LNG's Elba Island terminal to the interconnections with Transco.

3. On March 31, 2009, Transco filed a prior notice request to construct under its blanket certificate two bidirectional interconnections to allow it to receive natural gas (regasified LNG) into its system from Elba Express.³ WGL filed a protest. Because WGL did not withdraw the protest within the time specified in section 157.205(f) of our regulations, Transco's filing was reviewed as a case-specific certificate application.

4. In its protest, WGL, a local distribution company providing service in Washington, D.C. and the surrounding region and a customer of Transco, alleged that the Commission's authorization of the proposed interconnections would result in WGL receiving regasified LNG from Transco and that such gas would damage mechanical pipeline couplings on its system. WGL stated that no regasified LNG is currently transported through Transco's Lines A and B, whereas its Lines C and D do carry such gas. WGL asserted that to protect the public safety, the Commission may need to require Transco to isolate the flow of regasified LNG received from Elba Express to pipelines C and D.

5. The September 17 Order found that the fact that Transco would be interconnecting with Elba Express and receiving regasified LNG into its system as a result was clearly identified as an integral part of the overall project which was the subject of the *Elba Express* proceeding.⁴ The Commission explained that the specific purpose of the bidirectional interconnection facilities at issue here was merely to effect the physical connection of the Elba Express and Transco pipelines contemplated in *Elba Express*. Accordingly, the approval of these interconnection facilities was a necessary complement to the Commission's authorization of the Elba Express pipeline. The Commission stated that the *Elba Express* proceeding would have been the appropriate forum for WGL to have raised its objections.

orders also authorized Elba Express's acquisition of an undivided ownership interest in the Twin 30s pipelines.

³ In the area of Transco's 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 one interconnection and all four lines at the other interconnection.

⁴ See *Elba Express*, 119 FERC ¶ 61,015 at P 23.

6. Nevertheless, the Commission found no merit to WGL's protest, explaining that the Commission had already addressed and rejected in the *Cove Point* proceeding⁵ the same contention that WGL makes here, i.e., that the Commission is required for reasons of public safety, to ensure that receipts of regasified LNG into its system are restricted. Specifically, the Commission found that the responsibility for the safety of WGL's system ultimately rests with WGL, asserting that the Commission has no jurisdiction or ability to ensure that non-jurisdictional entities, like WGL, can safely accommodate gas volumes being transported in interstate commerce by facilities authorized and regulated by the Commission. The Commission stated that 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 individual shippers."⁶

Procedural Issue

7. On June 19 and June 23, 2009, respectively, Elba Express and Transco filed answers to WGL's protest. On September 2, 2009, WGL filed an answer to Elba Express' and Transco's answers. The September 17 Order accepted the answers of Elba Express and Transco because they provided information that assisted us in our decision making. The September 17 Order, however, did not address WGL's September 2 filing.

8. WGL contends that the Commission erred in not addressing its pleading, asserting that its filing replied to new information contained in Transco's and Elba Express' answers. WGL contends that because the Commission's September 17 Order accepted and discussed the information submitted by Transco and Elba Express, it should have similarly addressed the information contained in WGL's answer to those pleadings.

9. WGL's answer was filed more than two months after Elba Express' and Transco's answers were filed. Thus, we do not view it as having been filed in a timely manner. However, we will respond to the issues raised in WGL's answer as part of our consideration of WGL's request for reconsideration and rehearing below.

⁵*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) (*Cove Point*).

⁶ September 17 Order at P 27.

WGL's Requests for Reconsideration and Rehearing

10. WGL asserts that approval of the two bidirectional interconnects will bring new and increased quantities of regasified LNG to areas on its system which have mechanical couplings. WGL contends that in the *Cove Point* proceeding the Commission recognized that regasified LNG causes leaks in the mechanical couplings on the WGL system, and relied on Transco's continued willingness to isolate two of its four lines from regasified LNG flows to protect WGL's system from damage. WGL states that in its answer to the WGL protest, Transco indicated for the first time that it contemplates using the new interconnections to allow regasified LNG to flow through all four of its lines.

11. WGL argues that the Commission erred in abandoning this "isolation solution" and in abandoning protections for WGL that the Commission relied on in the *Cove Point* proceeding. The Commission, WGL avers, must act consistently, stating that it is illogical for the Commission to find a need to protect the WGL system from regasified LNG in the *Cove Point* proceeding, but to permit Transco to flow regasified LNG from Elba Express to portions of the WGL system containing similar at-risk facilities.

12. WGL asserts that until Transco filed its application to construct the interconnection with Elba Express and the additional information contained in its motion and answer, WGL did not know, and could not have known, the impact of the receipt of Elba Express LNG on its system. WGL states that flow diagrams it received from Transco show that regasified LNG could amount to almost half of the gas flows though the WGL service territory during the summer and one-third of the peak-day flows. WGL asserts that, although these supplies will be blended with gas from domestic sources, they will be blended at a concentration too low to avoid harm to the WGL system and will cause unsafe leakage. WGL contends that the potential harmful impacts from this scenario could be substantial, and that those impacts must be fully considered by the Commission.

13. WGL submits that in this proceeding, as in the *Cove Point* proceeding, the Commission's prime focus should be on preserving the safety of the natural gas infrastructure from unsafe leakage. The Commission, argues WGL, must conduct *de novo* fact finding to determine how these interconnects and the resulting LNG flows from Elba Express could affect the WGL system. WGL also suggests that this proceeding may be an appropriate forum for determining tariff standards for regasified LNG.

14. WGL asserts that the Commission has failed to consider the costs to Transco's existing customers from these interconnections and has not properly determined whether adverse impacts on Transco's customers have been minimized. WGL states that its protest showed that if Transco were authorized to construct the proposed interconnections, WGL would need to incur substantial costs to construct and operate a hexane conditioning facility and undertake a substantial mechanical coupling upgrade

program. In comparison, the construction of the interconnections will be paid for by Elba Express, and Transco will have no expenses. While WGL concedes that the interconnections may have some value if Elba Express' regasified LNG results in an economic new source of gas, the Commission has not considered the economic costs to WGL, which costs, WGL contends, outweigh any benefits shown.

Commission Response

15. WGL argues that not requiring Transco to isolate any regasified LNG from entering its system here is inconsistent with the Commission's approach in the *Cove Point* proceeding. In *Cove Point*, the Commission authorized an expansion of the Cove Point terminal facility and the construction of new downstream pipeline, including 47.8 miles of 36-inch diameter expansion on the Cove Point Pipeline in Maryland. The Cove Point terminal facility is located adjacent to WGL's service territory. WGL is directly interconnected to the Cove Point Pipeline at six gate stations, which provide the sole source of supply for WGL's customers in Calvert and St. Mary's Counties, Maryland. WGL also receives natural gas through interconnections with Dominion Transmission, Inc., Columbia Gas Transmission Corporation (Columbia), and Transco. The Cove Point Pipeline delivers into each of these pipelines; thus, the gas streams in each of these pipelines include varying amounts of regasified LNG from the Cove Point terminal. Under an informal understanding between WGL and Transco, which the parties agree is subject to Transco's willingness to continue the arrangement, WGL does not at the present time receive Cove Point gas from the Transco system.

16. In approving the Cove Point Project, the Commission addressed a number of issues, including a claim by WGL that the unusually high number of gas leaks on a portion of its system that receives primarily regasified LNG from the Cove Point LNG terminal is attributable to the "dry" regasified LNG's effects on the seals in its pipeline couplings. The Commission found that factors other than regasified LNG, namely the application by WGL of hot tar to the coupling seals as a means of corrosion control, the increase in operating pressures on WGL's system, and colder temperatures were primarily responsible for the leaks of which WGL complains. The Commission concluded that there is no scientific evidence that regasified LNG presents safety issues in a properly maintained gas distribution system.

17. The Court of Appeals affirmed the Commission's findings that the leaks on WGL's system were due primarily to the condition of WGL's pipeline couplings, not the introduction of regasified LNG into the WGL system.⁷ The court also agreed with the

⁷ 532 F.3d 928 at 932.

Commission that the responsibility to prevent or repair future leaks belongs to WGL.⁸ However, the court stated that, having found WGL's system to be defective, the Commission needed to explain how the project could nevertheless proceed consistent with the public interest. The court remanded the proceeding so the Commission could more fully address the issue.⁹

18. On remand, the Commission addressed the Court's concerns by adopting a provision that would restrict deliveries from the Cove Point Pipeline into Columbia at their Loudoun, Virginia interconnection to pre-expansion levels. This, in turn, would prevent Columbia from delivering any additional volumes of regasified LNG to WGL as a result of the expansion of the Cove Point terminal facility. With respect to Transco, the Commission noted that "delivery points on Transco's system that serve WGL have already been isolated from all LNG-sourced supplies by the installation of certain valves such that 'WGL can now exclude Cove Point gas that is transported through the Transco pipeline from each of its four Transco gate stations.'"¹⁰ However, contrary to WGL's assertion, we did not require this practice to continue as a condition to our approval of the Cove Point project.

19. As discussed above, the Cove Point LNG terminal and Cove Point Pipeline essentially deliver regasified LNG directly to the heart of WGL's service territory. By contrast, Southern LNG's Elba Island terminal and Transco's interconnections with Elba Express are located hundreds of miles and several states away from WGL. The regasified LNG which Transco may receive from Elba Express will be blended with domestic gas already in the Transco pipeline system as it is transported those hundreds of miles before it enters the WGL system. WGL makes an unsupported (and unquantified) assertion that the gas will be blended at "too low a concentration" to meet its needs. However, WGL has not shown that its facilities will be unable to accommodate gas which will reach it on Transco's system upon completion of this project. We note that all the regasified LNG received by Transco from Elba Express, and all the blended gas delivered by Transco into WGL's system, will meet the gas quality specifications of Transco's tariff. Given the circumstances, we find no inconsistencies between the holding in the September 17 Order and the Commission's actions in the *Cove Point* proceeding.

⁸ *Id.* at n.4.

⁹ *Id.* at 933.

¹⁰ *Cove Point, Order on Remand*, 125 FERC ¶ 61,018, at P 67 (2008).

20. As we noted in *Cove Point*, the Commission has no regulatory authority under the NGA that would allow us to monitor or require upgrades to local distribution systems.¹¹ The nation's gas supply is becoming increasingly diverse. In addition to imported LNG, new production from the Rocky Mountain region and shale gas from various areas are playing an ever-increasing role in meeting the country's growing demand for natural gas. The gas quality profiles of each of these supply sources differ from one another and from the profiles of historic Gulf-area production. In addition, given the increasing interconnectivity of the interstate natural gas transportation grid, there is no guarantee – indeed, in many instances it is very unlikely – that an individual shipper will actually receive molecules of gas from the shipper's contractual source of supply.¹² Therefore, were we to allow those entities with gas quality requirements more restrictive than those we have generally found to be just and reasonable to control the specifications in interstate pipelines' tariffs, they would be able to dictate the supplies that could be transported on the interstate grid, limiting the supply options available to other shippers and consumers at large.¹³ As we have previously stated, such a standard would potentially shut out not only imported LNG supplies, but also domestic supplies from the Rockies and gas from the recently developed and soon-to-be developed shale plays, such as the Barnett and Marcellus areas.¹⁴ Alternatively, as WGL's comments regarding Transco's restricting regasified LNG to its Lines C and D would suggest, interstate pipelines would have to operate separate systems dedicated to individual gas supply sources. We believe that either of these outcomes would be detrimental to the public interest.

21. This position is fully consistent with our Policy Statement Governing Gas Quality and Interchangeability (Policy Statement).¹⁵ While the Policy Statement encourages interstate pipelines and their customers to work together to resolve disputes

¹¹ *Cove Point, Order on Reh'g and Clarification*, 126 FERC ¶ 61,036, at P 49 (2009).

¹² For example, while a given shipper might source its gas purchases from the Gulf Coast region, depending on the location of its receipt points on an interstate pipeline downstream of interconnections with other pipelines, the shipper might actually receive molecules of Rocky Mountain gas (or regasified LNG).

¹³ *See Cove Point, Order on Reh'g and Clarification*, 126 FERC ¶ 61,036 at P 49.

¹⁴ *Id.*

¹⁵ *Policy Statement on Provisions Governing Gas Quality and Interchangeability in Interstate Natural Gas Pipeline Company Tariffs*, 115 FERC ¶ 61,325 (2006).

over gas quality and interchangeability, the Policy Statement does not contemplate that we will require an interstate pipeline making deliveries of gas meeting the gas quality specifications in its tariff to make additional concessions based on the gas quality needs of a particular downstream pipeline or other customer. Since issuing the Policy Statement, we have stated on several occasions that an interstate pipeline is responsible only for the operational integrity of its own system, not for the operational integrity of downstream systems. Indeed, we have stated that, to the extent prior decisions could be read as establishing a policy that an upstream pipeline must establish gas quality standards that enable it to satisfy whatever gas quality standards any downstream entity may establish for its system, we no longer believe such a policy is appropriate.¹⁶ Thus, we see no reason to revisit Transco's gas quality standards here or to engage in fact finding to determine how LNG from Elba Express could affect WGL's system.¹⁷

22. WGL asserts that the Commission has not adequately considered the costs that WGL would necessarily incur to accommodate Transco's new blended gas flows, and suggests instead that Transco (and its customers) should pay for facilities that would continue to assure that no additional deliveries containing regasified LNG enter WGL's system. Transco explained in its answer to WGL's protest that, because the gas will be blended into all four of its mainlines far from WGL's facilities, it would have to make extensive changes to its pipeline system between the new interconnects and WGL's facilities that would require Transco 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. As we explained in the *Cove Point* proceeding, a holding affirmed by the court, WGL is responsible for paying to adapt its system to be in a position to receive gas that has previously been determined to be of an acceptable quality.¹⁸ Beyond the fact that WGL has failed to demonstrate that modifications to its system will indeed be necessary to accommodate the gas that will be delivered to WGL following Transco's interconnection with Elba Express in Georgia, WGL has failed to demonstrate why it would be in the public interest for such costs, even if they were considerable, to be borne by non-WGL shippers.

¹⁶ See *Cove Point, Order on Reh'g and Clarification*, 126 FERC ¶ 61,036 at P 50.

¹⁷ A complaint filed pursuant to section 5 of the NGA would be a more appropriate forum to determine whether Transco's existing gas quality specifications remain just and reasonable.

¹⁸ See *Cove Point, Order on Reh'g and Clarification*, 126 FERC ¶ 61,036, at P 89.

The Commission orders:

WGL's requests for reconsideration and/or rehearing are denied.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.