

authorized Florida Gas and Transco, among other things, to construct and operate approximately 15.54 miles of 26-inch diameter pipeline from an interconnection with Gulf LNG Pipeline, LLC² to interconnections with the jointly-owned Mobile Bay Lateral and Florida Gas' Mobile Bay Lateral Extension Project (the Pascagoula Expansion Project). The Pascagoula Expansion Project crosses the southern part of Mr. Daversa's property.

Mr. Daversa's Filings

4. On August 4, 2010, Mr. Daversa made three e-mail filings with the Commission requesting intervenor status and rehearing of the July 15 Order. In the pleadings, which are only two or three sentences long, Mr. Daversa contends that he was never given the opportunity to comment on the proposal to construct and operate the Pascagoula Expansion Project and that the pipeline will have a negative impact on the development of his property.

5. On September 28, 2010, the Commission staff sent a Data Request to Transco and Florida Gas seeking information, including the location of Mr. Daversa's property in relation to the original and revised Pascagoula Expansion Project routes and details regarding their communications with Mr. Daversa. Transco and Florida Gas filed their Response to that Data Request on October 5, 2010.

Request to Intervene

6. In considering whether to grant an untimely motion to intervene, we may apply the criteria set forth in Rule 214(d)³ and consider whether: (1) the movant had good cause for failing to file the motion within the time prescribed; (2) any disruption of the proceeding might result from permitting the intervention; (3) the movant's interest is adequately represented by other parties in the proceeding; (4) any prejudice to, or additional burdens upon, the existing parties might result from permitting the intervention; and (5) the motion describes in adequate detail the movant's interest in and right to participate in the proceeding. When late intervention is sought after the issuance of a dispositive order, the prejudice to other parties and the burden upon the Commission

² The Gulf LNG Pipeline, which is currently under construction, will extend from Gulf LNG Energy, LLC's liquefied natural gas import terminal in Jackson County, Mississippi to Pascagoula County, Mississippi, as well as two other destinations.

³ 18 C.F.R. § 385.214(d) (2010).

of granting the late intervention may be substantial. A movant bears a higher burden to show good cause for granting such late intervention after issuance of an order addressing the merits of an application.⁴

7. Mr. Daversa asserts that he did not have an opportunity to comment on Transco's and Florida Gas' proposals. The record shows, however, that Mr. Daversa signed a return receipt for the certified mailing of the notice of the applicants' environmental survey on April 8, 2008. Mr. Daversa gave verbal permission for them to survey his property in telephone conversations on May 19, 2008 and July 25, 2008. In addition, Mr. Daversa signed a return receipt for the certified letter about the pre-filing process and open house meeting on October 23, 2008.⁵

8. On August 28, 2009, Transco and Florida Gas sent the landowner notification required by section 157.6(d) of the Commission's regulations to Mr. Daversa by certified mail.⁶ On October 8, 2009, this notification was returned as undeliverable. On the same date, the applicants' representative contacted Mr. Daversa by telephone, obtained a new address, and arranged a meeting with Mr. Daversa. That meeting took place at Mr. Daversa's home on October 12, 2009, and the applicants' representative provided Mr. Daversa with the landowner notification. The notification included a copy of the Commission's pamphlet that explains the certificate process, and information on how to intervene in proceedings before the Commission. At the meeting, Mr. Daversa indicated that he did not like the route of the pipeline on the southern part of his property.

9. About nine months later, on July 26, 2010, the applicants' representative informed Mr. Daversa by e-mail that the Commission had issued the July 15 Order authorizing the construction of pipeline facilities across his property. In an e-mail response, Mr. Daversa again stated that he did not like the pipeline route across his property and that his address and telephone number had changed. In e-mail exchanges over the next couple of weeks and at a meeting in Mobile, Alabama, Mr. Daversa requested contact information for the Commission and maintained that the pipeline would negatively affect his ability to

⁴ See, e.g., *Entrega Gas Pipeline Inc.*, 113 FERC ¶ 61,327 (2005); *Rendevous Gas Services, LLC*, 113 FERC ¶ 61,169 (2005); and *Columbia Gas Transmission Corp.*, 113 FERC ¶ 61,066 (2005).

⁵ Notice of Intent to Prepare an Environmental Assessment was published in the *Federal Register* on December 18, 2008 (73 Fed. Reg. 79,464), with comments due on or before January 15, 2009.

⁶ Notice of Florida Gas' application in Docket No. CP09-455-000 and the joint application of Florida Gas and Transco in Docket No. CP09-456-000 was published in the *Federal Register* on September 3, 2009 (74 Fed. Reg. 45,626). The notice provided that motions to intervene and comments were due by September 17, 2009.

develop the property. Transco and Florida Gas provided Mr. Daversa with the Commission's contact information, but Mr. Daversa declined to provide Transco and Florida Gas with his new address and telephone number.⁷

10. We find that Mr. Daversa has not shown good cause to grant his motion to intervene at this late stage of the proceeding. Mr. Daversa knew about the proposals because he received information concerning the environmental survey, pre-filing process, and an open house by certified mail. After Transco and Florida Gas filed their Natural Gas Act (NGA) section 7(c) application with the Commission, Mr. Daversa, like the other landowners along the route of the Pascagoula Expansion Project, also received the landowner notification, including information on how to intervene in Commission proceedings, albeit a month to six weeks after other landowners because he had moved.

11. Even though Mr. Daversa expressed concerns about the pipeline route to the applicants' representative, he did not exercise his prerogative to intervene during the early stages of the proceeding. Thus, we are satisfied that, contrary to his assertion, Mr. Daversa had ample notice and opportunity to intervene and comment on the proposals. Further, allowing late intervention at this point potentially would create prejudice and additional burdens to the Commission, other parties, and the applicants. Accordingly, we will deny Mr. Daversa's untimely motion to intervene under Rule 214(d) of the Commission's Rules of Practice and Procedure.

Request for Rehearing

12. Under section 19(a) of the NGA and Rule 713(b) of our regulations,⁸ only a party to a proceeding has standing to request rehearing of a Commission decision. Since he is not a party to this proceeding, we will dismiss Mr. Daversa's request for rehearing.

13. In any event, moving the pipeline to reduce impacts to Mr. Daversa's property would have placed the pipeline closer to residences to the south or to a populated area to the northeast.⁹ Mr. Daversa's pleadings merely contend that the pipeline will have a negative impact on the development of his property. He provides no other support for his assertion. We could not reconsider the findings in the July 15 Order on the basis of this statement alone. We note that Mr. Daversa can seek compensation for any diminution of property values through easement negotiations with Transco and Florida Gas or in a court proceeding.

⁷ This sequence of events is described in the Transco/Florida Gas October 5, 2010 Response to Data Request at Question 4.

⁸ 18 C.F.R. § 713(b) (2010).

⁹ Transco/Florida Gas October 5, 2010 Response to Data Request at Question 5.

The Commission orders:

(A) Mr. Daversa's motion to intervene out-of-time is denied.

(B) Mr. Daversa's request for rehearing is dismissed.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.