

137 FERC ¶ 61,125
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Tennessee Gas Pipeline Company

Docket No. CP11-36-001

ORDER GRANTING CLARIFICATION AND REHEARING

(Issued November 17, 2011)

1. On August 24, 2011, the Commission issued a certificate of public convenience and necessity to Tennessee Gas Pipeline Company (Tennessee), in Docket CP11-36-000, for the construction and operation of a new 2,000 horsepower (hp) compressor station along its Northampton Lateral on its 200 Line system in Western Massachusetts.¹ On September 12, 2011, Tennessee filed a request for rehearing of the August 24 Order.
2. As discussed below, we will grant Tennessee's request for rehearing.

Background

3. In the August 24 Order, the Commission authorized Tennessee to construct a new 2,000 hp compressor station on its Northampton Lateral Line 260A-100 in Southwick, Massachusetts (Northampton Expansion Project), which Tennessee anticipates will add 8,305 dekatherms (Dth) per day of firm transportation capacity. In combination with 2,095 Dth per day of turn-back capacity released by one of Tennessee's shippers, the Northampton Expansion Project will provide a total of 10,400 Dth per day of incremental firm transportation service to the Bay State Gas Company (Bay State) and The Berkshire Gas Company (Berkshire). Tennessee entered into binding precedent agreements with Bay State for 6,100 Dth per day of firm transportation service and with Berkshire for 4,300 Dth per day.
4. Significant for this rehearing, Tennessee's binding precedent agreement with Berkshire contains a provision by which Tennessee agrees to deliver scheduled gas from its Lateral Line 260A-100 at a minimum pressure of 200 pounds per square inch (psi) to

¹ *Tennessee Gas Pipeline Co.*, 136 FERC ¶ 61,125 (2011) (August 24 Order).

allow Berkshire to meet its delivery obligations to customers on its system. Tennessee's request for rehearing states that its application for the Northampton Expansion Project mistakenly identified the minimum pressure provision in its agreement with Berkshire as a provision that did not conform with its pro forma service agreement and requested approval of the provision.

5. In the August 24 Order the Commission approved several provisions in Tennessee's precedent agreements that did not conform with its pro forma service agreement, but did not approve the minimum pressure provision in Tennessee's agreement with Berkshire. We stated that "such provisions may not be negotiated absent a provision in the tariff authorizing such negotiation" because "minimum or maximum pressure provisions relate to the operational conditions of transportation service on the pipeline and affect the quality of service to be received." We directed Tennessee to "either remove this provision from the Berkshire firm transportation agreements or modify its tariff to provide for minimum or mutually-negotiable pressure(s)."² In addition, Ordering Paragraph (B) of the August 24 Order requires Tennessee to construct and make the Northampton Expansion Project facilities available for service within one year from the date of the order, or August 24, 2012.

6. In its request for rehearing, Tennessee argues that its tariff already permits it to negotiate minimum or mutually-negotiable pressures in a shipper's firm transportation agreement. Tennessee acknowledges that its certificate application identified the minimum delivery pressure provision in its agreement with Berkshire as non-conforming, but states that shortly before it filed its application, the Commission approved the addition of a provision to its pro forma service agreement that allows for negotiated minimum pressures.³ According to Tennessee, Exhibit A of its pro forma Gas Transportation Rate Schedule FT-A contains a fill-in-the-blank for other provisions permitted by the tariff under the applicable rate schedule or pursuant to Article XXXVI of the General Terms and Conditions (GT&C) of Tennessee's tariff. Tennessee states that Article XXXVI contains a table with cross-references to other provisions in the tariff that may be included in a Gas Transportation Agreement, including a reference to Article X, section 1 of the GT&C, which allows Tennessee to make deliveries at the shipper's designated delivery points as nearly as practicable to Tennessee's line pressure, provided that the minimum pressure is stated in the shipper's transportation agreement and is not less than 100 psi.

² *Id.* P 29.

³ *See* unpublished letter order issued October 13, 2010 in Docket Nos. RP10-1310-000 and -001.

7. Therefore, Tennessee argues, it should not be required to remove the minimum pressure requirement from its firm transportation agreement with Berkshire and asks the Commission to clarify that Tennessee may execute a firm transportation agreement with Berkshire containing the minimum delivery pressure requirement, or, in the alternative, grant rehearing of the issue.

8. In addition, Tennessee requests clarification that, notwithstanding Ordering Paragraph (B) of the August 24 Order, which requires Tennessee to place the Northampton Expansion Project into service by August 24, 2012, Tennessee may have until November 1, 2012 to place the facilities into service because Tennessee's precedent agreements with Bay State and Berkshire do not require Tennessee to commence service until November 1, 2012.

Discussion

9. As discussed below, we will grant Tennessee's request for clarification and allow the minimum pressure provision to remain in Tennessee's firm transportation agreement with Berkshire. In addition, we will modify the date by which Tennessee must construct and make available for service the Northampton Expansion Project, as requested, to November 1, 2012.

10. As Tennessee points out, its recently modified tariff allows Tennessee to negotiate the pressure of delivered natural gas. Therefore, the provision in Tennessee's service agreement with Berkshire in which Tennessee agrees to deliver scheduled gas from the Lateral Line 260A-100 at a minimum pressure of 200 psi is not a non-conforming provision. As we stated in the August 24 Order, minimum pressure provisions "may not be negotiated absent a provision in the tariff authorizing such negotiation."⁴ Because we find that Tennessee's tariff allows Tennessee to negotiate the pressure at which it delivers gas to its shippers, we clarify that the minimum pressure provision in Tennessee's firm transportation agreement with Berkshire is not non-conforming and thus Tennessee is not required, as ordered in the August 24 Order, to "either remove this provision from the Berkshire firm transportation agreements or modify its tariff to provide for minimum or mutually-negotiable pressure(s)."⁵

11. In addition, because Tennessee is not required by its service agreements to place the Northampton Expansion Project into service until November 1, 2012, we grant rehearing and modify Ordering Paragraph (B) of the August 24 Order to allow Tennessee

⁴ August 24 Order, 136 FERC ¶ 61,125 at P 29.

⁵ *Id.*

until November 1, 2012 to construct and make available for service the facilities approved therein.

The Commission orders:

(A) Tennessee's request for rehearing is granted.

(B) The August 24 Order is modified to permit the minimum pressure provision in Tennessee's firm transportation agreement with Berkshire, as described above.

(C) Ordering Paragraph (B) of the August 24 Order is modified to allow Tennessee until November 1, 2012 to construct and make available for service the facilities described specifically therein.

By the Commission. Commissioner Spitzer is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.