145 FERC ¶ 61,145
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Discovery Gas Transmission LLC | Docket No. CP12-516-001

ORDER GRANTING REHEARING

(Issued November 21, 2013)

1. On May 24, 2013, the Commission issued an order granting a certificate of public convenience and necessity to Discovery Gas Transmission LLC (Discovery) under section 7(c) of the Natural Gas Act (NGA)[1], authorizing it to construct and operate a project which will include a new junction platform in South Timbalier Block 283 offshore Louisiana in the Gulf of Mexico, new pipeline facilities that will extend Discovery's existing system to the new platform, an emergency outage lateral pipeline, and other appurtenant facilities.[2] The May 2013 Order also required Discovery to recalculate incremental recourse rates based on the engineered design capacity of the 9.5 mile mainline extension pipeline (Mainline Extension), and to file actual tariff records with the revised incremental rates and changes to its tariff.

2. On June 21, 2013, Discovery filed a request for rehearing, challenging the May 2013 Order's directive for Discovery to recalculate its proposed rates. For the reasons discussed below, the Commission grants Discovery's request for rehearing.

[1] 15 U.S.C. § 717f(c) (2012).

[2] *Discovery Gas Transmission LLC*, 143 FERC ¶ 61,171 (2013) (May 2013 Order).

I. The May 2013 Order

3. The May 2013 Order found that the public convenience and necessity required approval of Discovery's proposal to construct and operate a project which includes a new unmanned four-pile junction platform, a 9.5-mile, 30-inch diameter Mainline Extension to connect the platform to Discovery's existing 30-inch offshore mainline, a 10-mile emergency outlet lateral, and related appurtenant facilities, all located offshore in federal waters of the Gulf of Mexico. The project will accomplish two main objectives. One is enabling Discovery to receive newly developed sources of deepwater natural gas from the Keathley Canyon Area in the central Gulf of Mexico for delivery to the onshore national pipeline grid. The other is providing Discovery and its existing customers a long-term solution for the pigging of Discovery's existing offshore mainline.[3] As described, the additional throughput to be received through the Mainline Extension will enable Discovery to address the challenges it has been facing in pigging its offshore mainline due to the low level of production being received into the current origination point of Discovery's system at the Lobster Platform over the last two to three years. Discovery's offshore pigging operations are critical to system safety and reliability given that Discovery is a dual-phase pipeline that transports liquids in addition to natural gas.

4. The May 2013 Order approved Discovery's proposal to charge incremental rates under its existing Rate Schedules FT-1, FT-2, and IT for service on the proposed Mainline Extension. However, the May 2013 Order rejected Discovery's proposed use of billing determinants of 170,000 dekatherms (Dth) per day in calculating those rates. Instead, the order required Discovery to recalculate its proposed incremental recourse rates using billing determinants of 600,000 Dth per day based upon the physical capacity of the Mainline Extension, and to file actual tariff records with the revised incremental rates and changes to its tariff.

II. Request for Rehearing

5. Discovery's request for rehearing challenges the May 2013 Order's directive that Discovery must design the initial incremental rates for the Mainline Extension using billing determinants of 600,000 Dth per day rather than the 170,000 Dth per day proposed by Discovery. Discovery argues that the Commission's directive to design rates based on the design capacity of the Mainline Extension is based on the mistaken assumption that Discovery will have an opportunity to completely fill the new mainline extension with new transportation commitments. However, Discovery maintains, its proposed project does not constitute a "system expansion" sized to accommodate significant new demand for transportation service. Rather, Discovery states, it simply extended its existing

[3] May 2013 Order, 143 FERC ¶ 61,171 at P 22.

105-mile mainline by 9.5 miles to address system pigging needs and access new supplies to supplement declining throughput in the existing mainline. Discovery states that it used 30-inch diameter pipe for the mainline extension only to physically accommodate system pigging needs for system safety and integrity and that, absent that need, it would have sized the extension significantly smaller to accommodate the new maximum capacity entitlements through the Mainline Extension.

6. Discovery also argues that the requirement that it calculate rates using the design capacity of the extension fails to recognize that Discovery's ability to contract for new volumes in the Mainline Extension is restricted by existing firm entitlements in the existing mainline. Discovery states that current firm entitlements on its existing offshore mainline stand at 314,914 Dth per day. Thus, Discovery asserts, it could not contract for an additional 600,000 Dth per day through the new Mainline Extension without violating its existing commitments in the mainline.[4] Discovery maintains that designing the incremental charge based on the full design capacity of the mainline extension would ensure that Discovery is unable to recover its project costs.

7. Further, Discovery states, all of its transportation contracts for the new facilities are under its existing FT-2 Rate Schedule, which is a firm service offered under a one-part volumetric, or usage-based, rate that does not include any reservation charge. In exchange for this flexibility, shippers must commit natural gas reserves for transportation on Discovery's system for the life of the reserves (referred to as "life-of-lease" transportation agreements) (see Application at 11-12, Exhibit P at 2-4). Given that Discovery's FT-2 Rate Schedule contains no reservation charge, minimum bill, or minimum transportation requirement, Discovery states, it is not assured of any level of revenue recovery from the project.

III. <u>Discussion</u>

8. As discussed in the May 2013 Order, initial rates are generally designed based on the capacity of the pipeline[5] to ensure that a pipeline constructing facilities is placed at risk for underutilization of the facilities if it does not contract with customers for the full

[4] Discovery notes that while it was originally certificated to transport up to 600,000 Dth per day through its offshore mainline, current firm entitlements, which ratchet down over time with throughput declines, currently at 314,914 Dth per day; moreover, current throughput of Discovery's offshore mainline averages less than 150,000 Dth per day.

[5] *Central New York Oil and Gas Co., LLC*, 134 FERC ¶ 61,035 (2011).

capacity of the pipeline.[6] This approach guards against possible cost over-recovery or the over-sizing of facilities. However, upon further consideration, we believe that the specific circumstances of this case warrant a departure from the Commission's general policy of requiring a pipeline to base its initial rates on actual capacity.

9. We will accept Discovery's assertion that it specifically used 30-inch diameter pipeline in sizing the Mainline Extension to physically accommodate system pigging needs, not primarily to enable it to meet a reasonably-anticipated demand for additional capacity. Discovery's proposal to use billing determinants of 170,000 Dth per day in calculating its initial incremental recourse rate is based on its producer/shippers' production forecasts for volumes committed to transportation through the Mainline Extension. This is an average of the first ten years' projected daily production from the new leases dedicated to Discovery's system and based on projected production data for the new supply sources (see Application, Exhibit I). The aggregate production forecast coincides with each shipper's firm entitlements, which ratchet downward over the life of the reserves along the projected production decline curve. Discovery states that in only 3 1/2 years the production is projected to fall below the 170,000 Dth per day average, and is projected to decline by almost 70 percent by the fifth year of service. Given the steep decline curve for the new offshore production, which is consistent with historical decline curves for similar offshore production, we find Discovery's proposal to be reasonable. Additionally, given that all of Discovery's transportation contracts for the new facilities are under its existing FT-2 Rate Schedule, which does not include any reservation charge, Discovery is not guaranteed any level of revenue recovery from the project. Based on the circumstances underlying this case, we find there is little likelihood of over-recovery of the Mainline Extension's costs. Therefore, the Commission will grant Discovery's request for rehearing and approve its initially proposed incremental recourse rates for service.

10. However, in an abundance of caution, we will require Discovery to file a cost and revenue study after four years of operation of the extension justifying its incremental initial rates. The filing must include a cost and revenue study in the form specified in section 154.313 of the regulations to update cost of service data.

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[6] *See Dominion Transmission, Inc.*, 104 FERC ¶ 61,267, at P 57 (2003).

Commission orders:

The request for rehearing filed by Discovery Gas Transmission LLC is granted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.