

145 FERC ¶ 61,251
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Transcontinental Gas Pipe Line Company, LLC

Docket No. CP12-497-001

ORDER DENYING REHEARING

(Issued December 19, 2013)

1. On July 18, 2013, the Commission authorized Transcontinental Gas Pipe Line Company, LLC (Transco), pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA),¹ to replace a 2,167-foot segment of 30-inch-diameter pipeline with a 42-inch-diameter pipeline in East Brandywine and East Caln Townships, Chester County, Pennsylvania (Brandywine Creek Replacement Project).² On August 16, 2013, Transco filed a timely request for rehearing of the July 2013 Order. As discussed below, this order denies the request for rehearing.

I. Background

2. In 2008, the Commission authorized Transco, among other things, to replace 7.15 miles of 30-inch-diameter pipeline with 42-inch-diameter pipeline on its Mainline A pipeline between the Downingtown Meter Station and Compressor Station 200 in Chester County, Pennsylvania, in order to provide an additional 142,000 dekatherms (Dth) per day of firm transportation service to its expansion shippers (Sentinel Expansion Project).³ A portion of the pipeline authorized to be replaced runs under the East Branch of Brandywine Creek. Transco states that it was unable at the time to obtain the necessary

¹ 15 U.S.C. §§ 717f(b) and 717f(c) (2012).

² See *Transcontinental Gas Pipe Line Company, LLC*, 144 FERC ¶ 61,042 (2013) (July 2013 Order). The order also authorized Transco to abandon pressure control facilities at its Downingtown Meter Station and Compressor Station 200 in Chester County, Pennsylvania.

³ See *Transcontinental Gas Pipe Line Corp.*, 124 FERC ¶ 61,160 (2008) (August 2008 Order). The August 2008 Order also approved Transco's proposed incremental rates for the Sentinel Expansion Project.

National Pollutant Discharge Elimination System permit and Water Obstruction and Encroachment permit from the Pennsylvania Department of Environmental Protection (PADEP) that would have allowed open cutting across the creek.

3. Since it was unable to obtain the necessary permits, Transco modified the construction plans that had been approved for the Sentinel Expansion Project by leaving in place the 2,167 feet of existing 30-inch-diameter pipeline crossing the East Branch of Brandywine Creek and connecting it to the newly installed 42-inch-diameter pipelines on either side of the creek.⁴ Transco states that it needed to install reducers⁵ to connect both ends of the 2,167-foot segment of 30-inch-diameter pipeline to the 42-inch-diameter segments.

4. Transco states that the installation of the reducers prevents internal inspection devices from passing along the entire length of Transco's Mainline A, as required by U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations.⁶ As a result, Transco requested, and was subsequently granted, a special permit from PHMSA waiving compliance with this requirement for three years, from June 10, 2011 (when PHMSA granted the temporary waiver) to June 10, 2014.

5. Because the waiver expires in June 2014, Transco filed an application for the Brandywine Creek Replacement Project to replace the 2,167-foot segment of 30-inch-diameter pipeline under the East Branch of Brandywine Creek with 42-inch-diameter pipeline in order to bring the facilities into compliance with PHMSA regulations. The July 2013 Order authorized construction of Transco's proposal. Because the replacement facilities had previously been approved as part of the incrementally-priced Sentinel Expansion Project, the July 2013 Order granted a presumption favoring rolling the costs of the Brandywine Creek Replacement Project into the incremental rates for service on the Sentinel Expansion Project in Transco's next NGA section 4 rate proceeding.

⁴ See Transco's Request to Modify the Facilities at the Downingtown Meter Station filed on September 11, 2009 at 1 (Docket No. CP08-31-000). Commission staff granted the request on September 23, 2009.

⁵ A reducer is a fitting that allows a larger pipeline to be connected to a smaller pipeline.

⁶ See 49 C.F.R. § 192.150 (2013) (requiring new transmission line and each replacement of line pipe, valves, fittings, or other pipeline components in a transmission line be designed and constructed to accommodate the passage of instrumented internal inspection devices).

II. Transco's Request for Rehearing

6. Transco contends that the Commission erred in granting a presumption favoring rolling the costs of the Brandywine Creek Replacement Project into the incremental rates for service on the Sentinel Expansion Project.⁷ Instead, Transco asserts that the replacement project costs should be rolled into the rates charged to Transco's existing mainline customers, arguing that the replacement facilities were not constructed as part of the Sentinel Expansion Project but were constructed to replace pipeline facilities authorized in 1948.⁸ According to Transco, the replacement project costs are maintenance capital expenditures incurred to bring its mainline system into compliance with PHMSA regulations, thereby benefitting Transco's existing mainline customers.⁹

III. Discussion

7. In its application to construct and operate the Sentinel Expansion Project, Transco stated, and the Commission's August 2008 Order found, that the replacement of 7.15 miles of 30-inch-diameter pipeline with 42-inch-diameter pipeline on Transco's Mainline A, including the segment under the East Branch of Brandywine Creek, was necessary in order to provide service to the Sentinel Expansion Project shippers.¹⁰ These shippers subscribed 100-percent of the expansion project's capacity.¹¹ Transco proposed to charge incremental rates for firm transportation on the Sentinel Expansion Project's facilities.¹² The August 2008 Order approved the proposed replacement of facilities,

⁷ See Transco Request for Rehearing at 4-5.

⁸ See *id.* at 5-7. The Commission's predecessor, the Federal Power Commission, authorized Transco to construct and operate 1,210 miles of 26-inch-diameter pipeline in 1948, which included the segment of pipeline under the East Branch of Brandywine Creek. Subsequently, Transco was authorized to change the diameter of the pipeline to 30 inches. See *In the Matter of Trans-Continental Gas Pipe Line Co., Inc.*, 7 FPC 139 at 144 (1948).

⁹ See Transco Request for Rehearing at 7-8.

¹⁰ See August 2008 Order, 124 FERC ¶ 61,160 at P 24; see also Transco's Sentinel Expansion Project Application filed on December 3, 2007 at 7 (Docket No. CP08-31-000) (stating "these facilities will enable Transco to provide 142,000 [Dth per day] of incremental firm transportation capacity to the Sentinel Shippers").

¹¹ See August 2008 Order, 124 FERC ¶ 61,160 at P 30.

¹² Transco's estimated plant costs were shown in Exhibit K of its Sentinel Expansion Project application and its proposed recovery of those costs were shown in the application's Exhibit P.

including the Brandywine Creek facilities, and approved the proposed incremental rates.¹³

8. After the August 2008 Order was issued, Transco was unable to replace the pipeline segment under the East Branch of Brandywine Creek because it could not obtain the necessary permits from the PADEP. Instead, Transco installed reducers, which prevent internal inspection devices from passing along the entire length of Mainline A as required by PHMSA regulations. Now, in this proceeding, Transco again requests authority to replace the pipeline segment under the creek with a 42-inch-diameter line.

9. We disagree with Transco's assertion that the Brandywine Creek Replacement Project constitutes a stand-alone proposal to replace facilities originally authorized under a certificate issued in 1948, wholly unrelated to its Sentinel Expansion Project. If Transco had constructed the Sentinel Expansion Project as originally authorized, the Brandywine Creek Replacement Project would have been unnecessary because an internal inspection device would have been able to pass through the segment of pipeline under the creek.

10. Moreover, in the Certificate Policy Statement, the Commission states that "the risks of construction cost over-runs should not be the responsibility of the pipeline's existing customers but should be apportioned between the pipeline and the new customers in their service contracts."¹⁴ Here, Transco has incurred additional construction costs related to its Sentinel Expansion Project because of the need first to defer the replacement of the 30-inch-diameter Brandywine Creek pipeline crossing and instead install reducers, and the need now to proceed with the replacement of the Brandywine Creek crossing with a 42-inch-diameter pipeline. It is consistent with the Certificate Policy Statement that responsibility for those additional costs be borne by Transco and its Sentinel Expansion customers and not by the existing customers on Transco's mainline system. Rolling the costs of the replacement project into Transco's mainline system rates would result in an inappropriate subsidy, contrary to the Commission's Certificate Policy Statement.

11. In its rehearing request, Transco cites *Algonquin Gas Transmission Company*¹⁵ to support its request to treat the replacement cost as a maintenance capital expenditure associated with Transco's Mainline A, separate from the Sentinel Expansion Project. In *Algonquin*, Algonquin filed an application for authority to upgrade its existing I-8

¹³ See August 2008 Order, 124 FERC ¶ 61,160 at PP 24, 25.

¹⁴ *Certification of New Interstate Natural Gas Pipeline Facilities*, 88 FERC ¶ 61,227, at 61,747 (1999) (Certificate Policy Statement).

¹⁵ 108 FERC ¶ 61,195 (2004).

pipeline in order to bring the pipeline into compliance with PHMSA safety regulations and to create capacity sufficient to enable Algonquin to provide an additional 140,000 Dth per day of firm transportation service, which would be made available to Algonquin's customers in the New England area. Algonquin proposed to allocate 60 percent of the costs to safety compliance and the remainder of the costs to the increase in capacity.¹⁶ Algonquin requested the Commission approve its request for a predetermination that its upgrade costs can be rolled into its system-wide rates. The Commission did so, holding that Algonquin's increase in the I-8 pipeline's capacity would benefit its existing customers. Thus, the Commission found that granting a presumption in favor of rolling the upgrade costs into Algonquin's system-wide rate would be appropriate.¹⁷

12. The facts in *Algonquin* are unlike those in the present proceeding. Here, the entire Sentinel Expansion Project, including the replacement of the 30-inch-diameter Brandywine Creek crossing, was proposed to provide additional service to the Sentinel Expansion Project customers. The fact that replacement of the creek-crossing segment was somewhat delayed because of Transco's inability to obtain the necessary permits does not change the fact that the replacement was intended to provide capacity for the Sentinel Expansion Project shippers. Conversely, the Algonquin project was designed to accomplish two purposes and Algonquin allocated the costs of the project accordingly: a portion to PHMSA compliance and the rest to the capacity expansion. Moreover, Algonquin's existing customers realized a benefit from even the expansion portion of the I-8 pipeline upgrade project because the additional 140,000 Dth per day of capacity would be available to them. In contrast, Transco's existing mainline customers will not realize the same benefit as a result of the Brandywine Creek Replacement Project because service on the capacity made available by the Sentinel Expansion Project, including any increment created by the Brandywine Creek Replacement Project, is available to shippers only under an incremental rate, intended to recover the costs of that project. The *Algonquin* case does not support Transco's position.

13. The Commission's policy is that projects designed solely to improve existing service for a pipeline's existing customers by improving reliability or providing flexibility are for the benefit of existing customers, and any rate increase for existing customers to pay for these improvements is not a subsidy.¹⁸ As stated previously, the Brandywine Creek Replacement Project was designed to address the problem of the Sentinel Expansion Project's noncompliance with PHMSA regulations.¹⁹ The

¹⁶ *See id.* P 12.

¹⁷ *See id.* P 22.

¹⁸ *See* Certificate Policy Statement, 88 FERC at 61,746, n.12.

replacement project was designed to address a problem integrally-related to the Sentinel Expansion Project, not to improve or maintain existing service to Transco's existing mainline customers. Thus, we find that rolling the costs of the replacement project into Transco's mainline system rates would be contrary to the Commission's Certificate Policy Statement.

The Commission orders:

Transco's request for rehearing of the July 2013 Order is denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.