

122 FERC ¶ 61,213  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

March 7, 2008

In reply refer to:  
Docket Nos. RP06-569-004,  
RP07-376-001, RP01-245-024  
and RP06-569-003

Scott C. Turkington  
Director, Rates & Regulatory  
Transcontinental Gas Pipe Line Corporation  
Post Office Box 1396  
Houston, Texas 77251

Dear Mr. Turkington,

1. On November 28, 2007, Transcontinental Gas Pipe Line Corporation (Transco) filed a Stipulation and Agreement (hereinafter Agreement) to settle and resolve, subject to certain reservations and adjustments as described in the Agreement, the issues in Docket Nos. RP06-569-000 and RP07-376-000. On December 18, 2007, initial comments relative to the Agreement were filed, and on December 28, 2007, reply comments were filed. On January 9, 2008, the Presiding Administrative Law Judge certified the Agreement to the Commission.

2. This Agreement is the result of extensive settlement discussions and reflects the parties' agreement to resolve the issues set for hearing in Transco's NGA Section 4 general rate change filing in Docket No. RP06-569-000, with the exception of the sole reserved issue identified in Section A of Article VIII. In addition, the Agreement resolves the issue in Docket No. RP07-376 that the Commission set for hearing and consolidated with Docket No. RP06-569-000.<sup>1</sup> Finally, the Agreement renders moot Transco's July 3, 2007 filing in Docket Nos. RP01-245-024 and RP06-569-003 relating to the reserved operations and maintenance (O&M) and administrative and general (A&G) cost allocation issue in Docket No. RP01-245-000.

---

<sup>1</sup>The issue in Docket No. RP07-376-000 concerned whether Transco's request to waive certain provisions of its tariff and retain any gain on the disposition of the excess top gas inventory at its Eminence storage facility was just and reasonable.

3. The Agreement resolves, subject to certain reservations and adjustments as described in the Agreement and as summarized below, Transco's cost of service, and reservation and throughput quantities for the Docket No. RP06-569 rate period, i.e., from March 1, 2007, until the earlier of (1) the effectiveness of Transco's next Natural Gas Act (NGA) Section 4 general rate case filing or (2) the effective date of a change to Transco's jurisdictional rates directed by a Commission order (other than an order resolving a reserved issue) pursuant to NGA Section 5.

4. The settlement cost of service is described in Article I of the Agreement and, with the exception of certain items specifically identified in Article I, has been negotiated and agreed to on a "black box" basis. The Agreement resolves all cost of service issues in the referenced consolidated proceedings.

5. Article II of the Agreement describes the settlement provisions regarding reservation and throughput quantities.

6. As reflected in Article III, the Agreement resolves cost classification, cost allocation and rate design for the Docket No. RP06-569 rate period, subject to modification, if necessary, as a result of the litigation or settlement of reserved issues identified in Article VII of the Agreement. The Agreement reflects the cost classification, cost allocation and rate design methodologies as filed by Transco in Docket No. RP06-569, as adjusted by certain subsequent filings described in the Agreement, except that the cost allocation methodology has been modified to reflect the parties' agreement, for purposes of settlement, to reflect the allocation of a total of \$23,000,000 of O&M and A&G expense to and among the incrementally-priced transportation services reflected in the Docket No. RP06-569 rate filing, under the conditions described in the Agreement. As a result, Transco's July 3, 2007 filing in Docket Nos. RP01-245-024 and RP06-569-003 relating to the reserved O&M and A&G allocation issue in Docket No. RP01-245 shall be rendered moot. Article III also reflects the parties' agreement, for purposes of settlement, to modify Transco's filed-for incremental rate applicable to Entergy-Koch Trading LP Contract No. 1031067 under Rate Schedule WSS-Open Access.

7. Appendices D and E to the Agreement contain tariff sheets reflecting rates based on the Agreement. The Settlement Rates reflect approved changes in Transco's rates made effective since March 1, 2007 (e.g., tracker filings) and prior to the filing of this Agreement. Article IV explains that the Settlement Rates are subject to adjustment to reflect the outcome of the reserved issues identified in Article VII of the Agreement and are subject to the "refund floor" described in Article IV of the Agreement. The Agreement further provides that within sixty days after the Agreement becomes effective, Transco will refund, with interest, to its customers the total amount collected since March 1, 2007 in excess of the Settlement Rates (subject to the "refund floor").

8. The Agreement also resolves, as stated in Article V of the Agreement, various revenue sharing, tariff and other matters:

- A. Section A of Article V of the Agreement includes provisions relating to revenue sharing procedures under which the revenues received by Transco from (a) the sale of injected base gas from its Hester storage facility will be shared, under the provisions of subsection 1 of Section A, 45% to the customers and 55% to Transco, and (b) the sale of “excess” top gas from its Eminence storage facility will be shared under the provisions of subsection 2 of Section A, 50% to the customers and 50% to Transco.
- B. Section B of Article V of the Agreement describes revisions to Transco’s Rate Schedules WSS and WSS-Open Access relating to the recovery of the costs of Transco’s replenishment of base gas under those rate schedules.
- C. Section C of Article V describes the modifications to the refund of cash-out revenue provisions of Section 15(b) of the General Terms and Conditions of Transco’s FERC Gas Tariff.

9. Article VI of the Agreement sets forth Transco’s agreement to file a NGA Section 4(c) general rate case no later than August 31, 2012.

10. Article VII of the Agreement describes the reserved issue and Article VIII contains contesting party provisions. Articles IX, X and XI of the Agreement are provisions governing court remand or modification of orders regarding the Agreement, standard reservations, approval by the Commission and effectiveness of the Agreement. Article X, Section G of the Agreement establishes that the standard for review for any proposed change to the terms of the settlement shall be the *Mobile-Sierra* “public interest” standard.<sup>2</sup>

---

<sup>2</sup> As a general matter, parties may bind the Commission to a public interest standard. *Northeast Utilities Service Co. v. FERC*, 993 F.2d 937, 960-62 (1<sup>st</sup> Cir. 1993). Under limited circumstances, such as when the agreement has broad applicability, the Commission has the discretion to decline to be so bound. *Maine Public Utilities Commission v. FERC*, 454 F.3d 278, 286-87 (D.C. Cir. 2006). In this case we find that the public interest standard should apply.

4

11. The Commission concludes that the Agreement is fair and reasonable, and in the public interest. It is therefore approved, to become effective as proposed. Approval of the Agreement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

By direction of the Commission. Commissioners Kelly and Wellinghoff  
dissenting in part with separate statements  
attached.

Kimberly D. Bose,  
Secretary.

cc: All Parties

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Transcontinental Gas Pipe Line Corporation

Docket Nos. RP06-569-004  
RP06-569-003  
RP07-376-001  
RP01-245-024

(Issued March 7, 2008)

KELLY, Commissioner, *dissenting in part*:

The parties to this settlement agreement request that the *Mobile-Sierra* “public interest” standard of review apply with respect to any future changes to the settlement, whether proposed by a party, a non-party or the Commission acting *sua sponte*. This settlement resolves issues related to Transcontinental Gas Pipe Line Corporation’s general Natural Gas Act Section 4 rate filing.

As I explained in *Transcontinental Gas Pipe Line Corporation*,<sup>1</sup> I do not believe that the Commission should approve a “public interest” standard of review provision, to the extent future changes are sought by a non-party or the Commission acting *sua sponte*, without an affirmative showing by the parties and a reasoned analysis by the Commission as to the appropriateness of such a provision. As I have previously noted,<sup>2</sup> this is particularly the case where, as here, the settlement agreement will impact a generally applicable tariff under which all customers take service, including any new customers that did not have the opportunity to participate in the settlement negotiations.

Accordingly, I dissent in part from this order.

---

Suede G. Kelly

---

<sup>1</sup> 117 FERC ¶ 61,232 (2006).

<sup>2</sup> *San Diego Gas & Electric Co.*, 119 FERC ¶ 61,169 (2007).

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Transcontinental Gas Pipe Line Corporation

Docket Nos. RP06-569-004,  
RP07-376-001,  
RP01-245-024  
and RP06-569-003

(Issued March 7, 2008)

WELLINGHOFF, Commissioner, dissenting in part:

The parties in this case have asked the Commission to apply the “public interest” standard of review when it considers any change to the Settlement that may be sought by the parties, a non-party, or the Commission acting *sua sponte*.

Because the facts of this case do not satisfy the standards that I identified in *Entergy Services, Inc.*,<sup>1</sup> I believe that it is inappropriate for the Commission to grant the parties’ request and agree to apply the “public interest” standard to future changes to the settlement sought by a non-party or the Commission acting *sua sponte*. In addition, for the reasons that I identified in *Southwestern Public Service Co.*,<sup>2</sup> I disagree with the Commission’s characterization in this order of case law on the applicability of the “public interest” standard.

For these reasons, I respectfully dissent in part.

---

Jon Wellinghoff  
Commissioner

---

<sup>1</sup> 117 FERC ¶ 61,055 (2006).

<sup>2</sup> 117 FERC ¶ 61,149 (2006).