

170 FERC ¶ 61,282
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

Transcontinental Gas Pipe Line Company, LLC

Docket No. RP20-618-000

ORDER ACCEPTING AND SUSPENDING TARIFF RECORDS, SUBJECT TO
REFUND, AND ESTABLISHING HEARING PROCEDURES

(Issued March 30, 2020)

1. On February 28, 2020, Transcontinental Gas Pipe Line Company, LLC (Transco) filed tariff records¹ proposing to revise Section 15 of the General Terms and Conditions (GT&C) of its tariff, “Refund of Cash-out Revenues.” Transco proposes to change the procedures used to address annual over- or under-recoveries resulting from the difference between the aggregate revenues received and costs incurred by Transco under the cash-out reconciliation mechanism in GT&C section 37.5. Transco proposes to revise GT&C Section 15 to establish a refund or surcharge rate designed to return to, or recover from, customers any over- or under-recovery of costs incurred under the cash-out provisions of the tariff during an annual period. In addition, Transco proposes conforming changes to other tariff sections that reference GT&C Section 15.

2. Transco requests that the proposed tariff records become effective April 1, 2020. We accept and suspend the tariff records listed in the Appendix to be effective September 1, 2020, subject to refund and the outcome of hearing procedures established herein.

Background

3. Transco states that its cash-out reconciliation mechanism addresses annual over- or under-recoveries of costs resulting from the operation of the monthly imbalance resolution provisions of GT&C Section 25, the cash-out provisions of GT&C Section 37, and the system management gas provisions of GT&C section 43. Transco states that

¹ See Appendix.

under the current mechanism, cash-out revenues received in excess of costs incurred are refunded to shippers at the end of each annual cash-out period (August 1 – July 31). Transco further states that if the revenues received are less than the costs incurred, the under-recovery is carried forward to the subsequent annual cash-out period and offsets any over-recovery that may occur in a subsequent period.

4. Transco states that beginning with the annual period of August 2014 through July 31, 2015, the cash-out reconciliation mechanism has experienced cumulative under-recoveries. Transco states that according to its most recent cash-out report for the annual period ending July 31, 2019, Transco's costs exceeded its revenues by \$57,744,732 on a cumulative basis. Transco is concerned that, given current gas prices and projections for future gas prices, it will continue to accumulate losses through its cash-out reconciliation mechanism for the next several years.

Proposal

5. Transco states that to address the current under-recovery in the cash-out reconciliation mechanism and to provide for a more timely and balanced resolution of any future over- or under-recoveries, it proposes to change its existing mechanism from the current refund/carry-forward process to an annual refund/surcharge process. Transco proposes to modify Section 15 of the GT&C to establish a refund or surcharge commodity rate designed to return to or recover from customers any over- or under-recovery of costs incurred under the cash-out provisions of the tariff during an annual period. Transco states that under the new mechanism, beginning November 1 of each year, the resulting surcharge would be assessed on firm and interruptible transportation customers subject to cash-out (excluding transportation transactions within a zone to pooling points in Zones 4A, 5, and 6), bundled storage customers under Rate Schedules GSS (General Storage Service), LSS (Leidy Storage Service), and SS-2 (Storage Service), and then-current measured quantities under Operational Balancing Agreements (OBAs) that are subject to cash-out. Transco states that it would calculate an initial annual surcharge in order to recover the \$57,744,732 balance in its cash-out deferred account that was reported in Transco's most recent annual cash-out report. According to Transco, the resulting initial surcharge would be \$0.00721 per dekatherm (Dth). Transco asserts that the Commission has approved mechanisms that recover under-recoveries and flow through over-recoveries on a timely basis for inclusion in other pipelines' tariffs.

Notice of Filing, Interventions, and Protests

6. Public notice of Transco's filing was issued on March 2, 2020. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.² Pursuant to Rule 214,³ all timely motions to intervene and any unopposed motions to intervene filed out-of-time before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. Protests were filed by PSEG Energy Resources & Trade LLC; Philadelphia Gas Works; National Grid Gas Delivery Companies;⁴ Exelon Corporation; Cabot Oil & Gas Corporation (Cabot); Producer Coalition;⁵ Indicated Shippers;⁶ Municipal Gas Authority of Georgia⁷ and the Transco Municipal Group,⁸ NFG Midstream Trout Run, LLC; Range Resources-Appalachia, LLC; National Fuel Gas

² 18 C.F.R. § 154.210 (2019).

³ 18 C.F.R. § 385.214 (2019).

⁴ National Grid Gas Delivery Companies include The Brooklyn Union Gas Company, KeySpan Gas East Corporation, Boston Gas Company, Colonial Gas Company, and The Narragansett Electric Company.

⁵ Producer Coalition consists of Castex Offshore, Inc., Deepwater Development Company, LLC, Fieldwood Energy, LLC, LLOG Exploration Company, LLC, LLOG Omega Holdings, L.L.C., Walter Oil & Gas Corporation, and W&T Offshore, Inc.

⁶ Indicated Shippers consist of Chief Oil & Gas LLC, ConocoPhillips Company, and Direct Energy Business Marketing, LLC.

⁷ Municipal Gas Authority of Georgia consists, inter alia, of Georgia municipalities of Bowman, Buford, Commerce, Covington, Elberton, Hartwell, Lawrenceville, Madison, Monroe, Royston, Social Circle, Sugar Hill, Toccoa, Winder, and Tri-County Natural Gas Company (consisting of Crawfordville, Greensboro and Union Point); the East Central Alabama Gas District, Alabama; the towns of Wadley and Rockford, Alabama; the Utilities Board of the City of Roanoke, Alabama; Wedowee Water, Sewer & Gas Board, Wedowee, Alabama; and the Maplesville Waterworks and Gas Board, Maplesville, Alabama.

⁸ Transco Municipal Group includes the Cities of Alexander City and Sylacauga, Alabama; the Commissions of Public Works of Greenwood, Greer, and Laurens, South Carolina; the City of Union, South Carolina; the Patriots Energy Group (consisting of the Natural Gas Authorities of Chester, Lancaster and York Counties, South Carolina); the cities of Bessemer City, Greenville, Kings Mountain, Lexington, Monroe, Rocky Mount, Shelby, and Wilson, North Carolina; and the City of Danville, Virginia.

Distribution Corporation; Seneca Resources Company, LLC; South Jersey Gas Company and Elizabethtown Gas Company; and Zone 4/5 Customers.⁹

7. EQT Energy, LLC; New Jersey Natural Gas Company and NJR Energy Services Company (jointly); Dominion Energy Cove Point, LP; NFG Midstream Trout Run, LLC; and Kinder Morgan Natural Gas Pipelines filed comments.

8. Protesters request that the Commission reject the proposed tariff records, suspend the proposed tariff records' effectiveness subject to refund for the full five months provided under section 4(e) of the NGA, and either establish a technical conference to require Transco to provide further information to address legal and factual issues raised by Transco's proposal, and/or set the matter for a full evidentiary hearing. Protesters also request that if a technical conference is established, the issues raised by Transco's pending imbalance cash-out proposals in Docket No. RP20-614-000 also be considered in the conference.

9. Protesters raise multiple issues in opposition to the proposal. Some maintain it violates the Commission's policy against retroactive ratemaking. Others contend that the proposal would penalize more recent customers and services that were not responsible for the under-recoveries accumulated by Transco over a five-year period, violating penalty cost incurrence principles. Protesters assert that if the Commission permits Transco to recover under-recoveries accumulated over a five-year period, then the recovered amount should be amortized over a comparable period rather than in one initial annual surcharge period. Protestors also maintain that it is not readily apparent from Transco's filing how the per-Dth surcharge will apportion the cash-out account balance among shippers and OBA parties. Protesters argue that Transco's illustrative surcharge rate, which takes the \$57.7 million under-recovery and spreads it across approximately eight million Dth of billing determinants, is too aggregated to provide an understanding of how the various shippers and categories of service will be subject to the surcharge. Protesters request that if the proposed cost recovery mechanism is not rejected, the parties should be afforded the opportunity at a technical conference or hearing to evaluate more detailed data and to develop a better understanding about how the proposed surcharge mechanism will allocate the cost responsibility among shippers and OBA parties.

⁹ Zone 4/5 Customers consist of Atlanta Gas Light Company; Dominion Energy South Carolina, Inc.; Duke Energy Carolinas, LLC; Duke Energy Progress, LLC; Duke Energy Florida, LLC; Piedmont Natural Gas Company, Inc.; Public Service Company of North Carolina, Inc.; Spire Alabama Inc.; Southern Company Services, Inc., as agent for Alabama Power Company, Georgia Power Company, Mississippi Power Company and Southern Power Company; Virginia Natural Gas, Inc.; and Virginia Power Services Energy Corp., Inc.

10. On March 23, 2020, Transco filed an answer to the protests in this filing. On March 26, 2020, Cabot filed an answer to Transco's answer. Pursuant to Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,¹⁰ answers to protests and answers are prohibited unless otherwise ordered by the decisional authority. We accept the answers because they provide information that will assist us in our decision-making process.

11. In its answer, Transco submits that the protesters' requests that the filing be rejected, set for a technical conference or hearing, and/or modified should be denied. Transco asserts the filing does not violate the Filed Rate Doctrine or the Rule Against Retroactive Ratemaking. Transco submits that its proposed Cash-Out Reconciliation Mechanism, which treats under-recoveries on the same basis as over-recoveries, is just and reasonable. Transco submits that the Commission should reject the suggestions that Transco be required to amortize the initial under-recovered amount over a period longer than the proposed annual period. Transco asserts that its filing is not premature and is not precluded under the recently filed settlement in Transco's Docket No. RP18-1126-000 general rate case, which is pending before the Commission for approval.

12. In its answer, Cabot asserts Transco should be able to identify entities that intentionally arbitrated the cash-out pricing creating the large imbalance. Cabot asserts that the balance in the cash-out deferred account must be recovered over a period longer than one year.

Discussion

13. Transco's filing raises issues that warrant further investigation. We find that there are material issues of fact in dispute that cannot be resolved based upon the record before us and which are best addressed in a hearing. Accordingly, we will establish a hearing to explore all issues raised by Transco's filing. We accept and suspend for five months the proposed tariff records listed in the Appendix, to be effective September 1, 2020, subject to refund and the outcome of the hearing procedures established below.

14. Transco's filing in Docket No. RP20-618-000 proposes to revise the cash out reconciliation mechanism. Contemporaneously, in Docket No. RP20-614-000, Transco proposed to revise calculations for the cash out of monthly imbalances. Certain parties assert that these filings have common issues that should be addressed together. Therefore, it may be administratively efficient to have one hearing for both dockets. We will leave it to the discretion of the Chief Administrative Law Judge whether to consolidate the proceedings in Docket Nos. RP20-614-000 and RP20-618-000.

¹⁰ 18 C.F.R. § 385.213(a)(2)(2019).

Suspension

15. Based upon review of the filing, we find that Transco's proposed tariff records have not been shown to be just and reasonable and may be unjust, unreasonable and unduly discriminatory or otherwise unlawful. Accordingly, we shall accept for filing and suspend Transco's tariff records for five months, to be effective September 1, 2020, subject to refund and the outcome of the hearing proceeding as ordered herein.

16. The Commission's policy regarding suspension is that rate filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or inconsistent with other statutory standards.¹¹ It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.¹² Such circumstances do not exist here. Therefore, we will suspend for the maximum period of five months the proposed tariff records listed in the Appendix, to be effective September 1, 2020, subject to refund and the outcome of the hearing ordered herein.

The Commission orders:

(A) The tariff records listed in the Appendix are accepted and suspended to be effective September 1, 2020, subject to refund, and the ordering paragraphs below.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the NGA, particularly sections 4, 5, 8, 9, and 15 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Natural Gas Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of Transco's filing, as discussed in the body of this order.

(C) A presiding judge, to be designated by the Chief Judge for that purpose, shall, within 15 days of the date of the presiding judge's designation, convene a

¹¹ See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

¹² See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Transcontinental Gas Pipe Line Company, LLC
FERC NGA Gas Tariff
Fifth Revised Volume No. 1

Tariff records accepted and suspended to be effective September 1, 2020, subject to refund and the outcome of hearing procedures:

[Section 1, Table of Contents, 35.0.0](#)

[Section 3.4, Rate Schedule EESWS, 4.0.0](#)

[Section 8.1, Rate Schedule PAL, 5.0.0](#)

[Section 15, Disposition of Cash-Out Costs and Revenues, 2.0.0](#)

[Section 25, Monthly Imbalance Resolution, 9.0.0](#)

[Section 37, Cash Out Provisions, 8.0.0](#)

[Section 43, System Management Gas, 1.0.0](#)