170 FERC ¶ 61,283
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. RP20-614-000

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 revised tariff records[1] proposing to revise the calculations establishing the prices it uses to cash out monthly imbalances pursuant to Section 25 of the General Terms and Conditions (GT&C) of its tariff. Transco states the tariff revisions will reduce the incentive for Transco's shippers and parties to operational balancing agreement (OBAs) (collectively, shippers) to intentionally create large imbalances subject to cash-out for the purpose of taking advantage of differences between spot market prices and Transco's cash-out prices.

2. Transco requests that the proposed tariff records become effective April 1, 2020. We accept and suspend the tariff records 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 section 37.1(a) of its GT&C provides that final monthly imbalances are cashed out based on the applicable reference spot price established for each zone within an Operational Impact Area (OIA). Transco states that the spot price for each zone is currently calculated as the arithmetic average of the high common, low common, and midpoint index prices designated for each zone, as published in the Platts Gas Daily "Daily Price Survey" postings for each day of the relevant month and the first seven days of the subsequent month. Transco states that this cash-out pricing mechanism was established in 2001 and was intended to reduce price arbitrage activities at the end of

[1] *See* Appendix.

the month by adding additional uncertainty through the inclusion of spot prices in the week after the end of the month.

4. Transco states that since the current cash-out mechanism was established, shippers have developed tools to aid in the prediction of cash-out pricing such that month-end cash-out prices can be closely estimated prior to the end of a production month. Transco states that shippers can now use predictive data to manipulate their imbalance positions to take advantage of differences between gas market prices and Transco's cash-out prices. Transco provides examples from May 2018 and July 2019, which it maintains show shippers manipulating their transportation imbalances by rate zone and OIA in order to arbitrage imbalances on the system that could cause operational issues threatening its ability to provide firm services. Transco states that in order to avoid such operational issues and manage large imbalance swings due to price changes, it has had to increasingly rely on Operational Flow Orders (OFO) to manage shipper behavior.

5. Transco asserts that since Order No. 637, the Commission has permitted pipelines to modify their cash-out mechanisms based on a showing that the existing mechanism provides an incentive for shippers to engage in arbitrage, and has not required pipelines to show actual arbitrage or that arbitrage creates operational problems. Transco asserts that, nevertheless, its filing demonstrates that shippers are engaging in arbitrage under its existing cash-out mechanism and that arbitrage has created operational problems that threaten its ability to provide reliable firm service.

Proposal

6. Transco proposes to calculate the arithmetic averages of the Platts Gas Daily, "Final Daily Price Survey" high Common and low Common index prices specified for each zone, using the seven highest daily prices and the seven lowest daily prices, respectively, in the relevant month, instead of using published Midpoint prices or the prices published for the first seven days of the subsequent month. Transco states that the arithmetic average of the seven highest daily high common prices in the month will be the reference spot price "Sell," and the arithmetic average of the seven lowest daily low common prices in the month will be the reference spot price "Buy."

7. Transco states that it has also included more than one reference index price for Zones 2, 5, and 6 to provide a more accurate reflection of the market prices in those zones. Transco further states that in the zones where it has included more than one index spot price, the calculated high averages for each referenced index will be averaged to determine the reference spot price "Sell" and the calculated low averages for each referenced index will be averaged to determine the Reference Spot Price "Buy." Transco also proposes to use four new reference indexes, which it asserts will result in cash-out prices that better reflect market prices. Transco states that in response to concerns from shippers, it proposes to increase from 1,000 Dekatherms (dth) to 5,000 dth the imbalance

tolerance levels that are cashed out at a non-penalty price or Weighted Average Spot Price, as applicable.

8. With respect to imbalances occurring in Transco's Zone 6, Transco states that it will no longer use two separate cash-out prices in Zone 6, one for OIA 3 and one for OIA 4, and instead will use a single cash-out price for Zone 6. However, Transco states that it will continue to "hold" imbalances by OIA in Zone 6. Transco states that the purpose of this change is to disincentivize price arbitrage between OIA 3 and OIA 4. Transco asserts that Appendix D of the filing demonstrates that there were significant cash-out price differences between OIA 3 and OIA 4 in 20 of the 24 months shown on the graph, and that Transco was often in the position of buying high and selling low.

9. Finally, Transco proposes conforming changes to Rate Schedules EESWS (Emergency Eminence Storage Withdrawal Service) and PAL (Parking and Loaning Service) and sections 18 and 25 of the GT&C to update the references to cash-out pricing. Transco further states that in order to address the creation of large monthly imbalances and imbalance swings by OBA parties, in tandem with the instant proposal to revise cash-out pricing, it has undertaken an effort to renegotiate OBAs covering production facilities or pipeline interconnections where OBAs are not required by Commission regulation.[2]

Notice of Filing, Interventions, and Protests

10. 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.[3] Pursuant to Rule 214,[4] 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.

---

[2] Application at 4.

[3] 18 C.F.R. § 154.210 (2019).

[4] 18 C.F.R. § 385.214 (2019).

11. Protests were filed by Cabot Oil & Gas Corporation (Cabot); Producer Coalition;[5] Indicated Shippers;[6] Municipal Gas Authority of Georgia[7] and the Transco Municipal Group (jointly);[8] New Jersey Natural Gas Company and NJR Energy Services Company (jointly); NFG Midstream Trout Run, LLC; Range Resources-Appalachia, LLC; Seneca Resources Company, LLC; South Jersey Gas Company and Elizabethtown Gas Company; Southern Company Services, Inc., as agent for Alabama Power Company, Georgia Power Company, Mississippi Power Company and Southern Power Company; Virginia Power Services Energy Corp., Inc.; and Washington Gas Light Company.

12. EQT Energy, LLC (EQT); Regency Marcellus Gas Gathering LLC and Regency NEPA Gas Gathering LLC; and PSEG Energy Resources & Trade LLC filed comments.

13. Protesters request that the Commission suspend the proposed tariff records' effectiveness 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. EQT also requests that if a technical conference is established, the issues raised by Transco's pending cash-out reconciliation proposals in Docket No. RP20-618-000 also be considered in the conference.

---

[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.

14. In general, protesters assert that the proposal is more punitive than has been deemed acceptable by the Commission under its Order No. 637 penalty policies. Protesters raise multiple issues concerning Transco's proposal. Protesters assert that the changes will compel certain shippers in Zone 6 to attempt to intentionally run and maintain positive imbalances to avoid cash-out of their Leidy volumes at New York market prices that may substantially exceed the Leidy prices that would otherwise apply to such imbalances. Protesters argue the proposal will compel other shippers to intentionally run and maintain positive and negative imbalances in different locations to avoid the harsh effects of the proposed revisions.

15. Protesters contend Transco's proposed cash-out pricing regime may exacerbate Transco's operating problems and result in even more use of OFOs than at present. Protesters question whether current or recent data on imbalances indicate that the structure of the current cash-out mechanism is inadequate to allow it to manage imbalances. Protesters assert the cash-out pricing changes will dramatically increase the cost of resolving imbalances through Transco's cash-out mechanism and compound the difficulties faced by shippers with "Due From Shipper" imbalances caused by implementation of Transco's priority of service tariff changes in Docket No. RP18-314.[9] Protesters argue the proposal would unjustifiably penalize small shippers, OBA parties, and producer/shippers that have not engaged in arbitrage. Protesters assert the proposal could dramatically increase the volatility of cash-out pricing. Protesters contend the proposal would treat minority position shippers, who are opposite the aggregate imbalance position, more harshly than majority position shippers.

16. On March 23, 2020, Transco filed an answer to the protests. 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.

17. In its answer, Transco asserts that its proposal is just and reasonable and that it should not be rejected, set for technical conference or hearing. Transco also asserts that it has fully supported its proposal to establish stricter pricing to curb the operational effects on the Transco system of shippers and OBA parties using Transco's cash-out mechanism as an alternative market or supply source. Transco asserts that large imbalances create significant operational challenges for Transco to ensure that system line pressure is adequate to satisfy delivery requirements. Transco states it has shown that the use of a seven day average of the highest high common or of the lowest low common index prices

---

[9] *Transcontinental Gas Pipe Line Co., LLC (Transco)*, 164 FERC ¶ 61,174 (2018); *reh'g denied*, 166 FERC ¶ 61,222 (2019).

[10] 18 C.F.R. § 385.213(a)(2) (2019).

would provide the necessary additional uncertainty regarding the final cash-out price in light of the many predictive tools available to shippers and OBA parties and would serve to minimize the existing incentive for shippers and OBA parties to consider the cash-out price as a reason to incur imbalances. Transco states it should not be required to rely solely on OFOs to manage pricing-related imbalances.

18. In its answer, Cabot reiterates that the tariff records should be suspended for five months and set for a technical conference. Cabot asserts Transco should be able to identify entities that intentionally arbitrage the cash-out pricing. Cabot asserts Transco should not be permitted to unilaterally terminate OBAs.

Discussion

19. Transco's filing raises many 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.

Suspension

20. 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.

21. 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

[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).

Appendix, to be effective September 1, 2020, subject to refund and the outcome of the hearing ordered herein.

22. Transco's filing in Docket No. RP20-614-000 proposes to revise calculations for the cash out of monthly imbalances. Contemporaneously, in Docket No. RP20-618-000, Transco filed a proposal to revise the cash out reconciliation mechanism. 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.

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 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 3.4, Rate Schedule EESWS, 3.0.0
Section 8.1, Rate Schedule PAL, 4.0.0
Section 18, Deliveries and Receipts, Overruns and Penalties, 14.0.0
Section 25, Monthly Imbalance Resolution, 8.0.0
Section 37, Cash Out Provisions, 7.0.0