

168 FERC ¶ 61,032  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Cheryl A. LaFleur and Richard Glick.

Transcontinental Gas Pipe Line Company, LLC

Docket No. RP18-1126-001

ORDER DENYING REQUEST FOR REHEARING

(Issued July 18, 2019)

1. This order addresses a request for rehearing filed by National Grid Gas Delivery Companies<sup>1</sup> (National Grid) of the Commission's September 28, 2018 order<sup>2</sup> accepting and suspending subject to hearing revised tariff records filed by Transcontinental Gas Pipe Line Company, LLC (Transco) pursuant to section 4 of the Natural Gas Act<sup>3</sup> (NGA) to implement a general rate increase to be effective October 1, 2018.
2. National Grid requests that the Commission reverse its determination in the September Order that certain issues concerning service flexibility at Transco's Floyd Bennet Field interconnect and certain automated file upload features on Transco's ILine communications system not be addressed at hearing. For the reasons discussed below, the Commission denies the instant request for rehearing.

**I. Procedural History and Background**

3. On August 31, 2018, Transco filed revised tariff records pursuant to section 4 of the NGA to implement a general rate increase to be effective October 1, 2018. In the September Order, the Commission accepted certain proposed tariff records representing a rate reduction, to be effective October 1, 2018, as requested, subject to the outcome of a

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<sup>1</sup> The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; Boston Gas Company and Colonial Gas Company, collectively d/b/a National Grid; Niagara Mohawk Power Corporation d/b/a National Grid; and The Narragansett Electric Company d/b/a National Grid, all subsidiaries of National Grid USA, Inc.

<sup>2</sup> 164 FERC ¶ 61,236 (2018) (September Order).

<sup>3</sup> 15 U.S.C. § 717c (2012).

hearing. The Commission also accepted and suspended, subject to refund and the outcome of a hearing, other proposed tariff records to be effective March 1, 2019.

4. The September Order denied National Grid's request that the Commission set two additional issues for hearing. First, National Grid asserted that in 2015 Transco placed into service the Northeast Connector Project and the Rockaway Lateral to serve a new delivery point known as Floyd Bennett Field located in Kings County, New York. National Grid argued that it could manage imbalances at Transco's interconnections using the bundled storage services that National Grid purchases from Transco but that Transco did not provide such service at its Rockaway Lateral and Northeast Connector interconnects. National Grid claimed that Transco proposed to allocate approximately \$819,000 of storage costs to its Rockaway Lateral and Northeast Connector services, to provide those services with no-notice flexibility at these points. National Grid stated that Transco did not provide a reasonable explanation for its refusal to provide National Grid with the same service flexibility as provided at other interconnects. National Grid further contended that Transco did not explain why it was reasonable for it to allocate significant amounts of storage costs to incremental services that did not receive the same level of flexibility as other Transco services.<sup>4</sup>

5. Second, National Grid stated that it has developed retail access programs in each of its service territories, under which it releases interstate pipeline capacity each month to participating marketers. As a result of the size of its retail access programs and the number of marketers that participate, National Grid stated that it must execute several hundred capacity release transactions each month by manually inputting those transactions into Transco's ILine electronic bulletin board. This process, National Grid contended, is time consuming and unduly burdensome.<sup>5</sup>

6. The September Order denied National Grid's requests to include the imbalance management and data entry issues in the hearing proceeding. Specifically, the Commission found that Transco's proposed changes were entirely focused on costs, functionalization, allocation and rate design. Thus, the Commission found an insufficient nexus between National Grid's imbalance management and data entry concerns and the rate issues to be investigated in a hearing in this proceeding. The Commission reasoned that if National Grid wished to raise these issues with the Commission it could do so by filing a complaint pursuant to the Commission's regulations.<sup>6</sup>

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<sup>4</sup> National Grid Protest at 7.

<sup>5</sup> *Id.* at 8.

<sup>6</sup> September Order, 164 FERC ¶ 61,236 at P 25.

(continued ...)

## II. Request for Rehearing

7. National Grid argues that the Commission acted arbitrarily by refusing to set for hearing the interconnect service flexibility (or, imbalance management) and ILine data entry issues. National Grid states that a nexus exists between Transco's rate proposal and the issues National Grid wishes to raise. Further, National Grid states that the Commission permitted intervenors to raise similar issues in the past.<sup>7</sup>

8. National Grid also argues that the Commission has denied it the benefit of the settlement (Settlement) it entered into with Transco, which was approved by the Commission in Docket No. RP12-993.<sup>8</sup> National Grid asserts that one of its rights established in the Settlement is its ability to raise issues in the general NGA section 4 and 5 hearings established in this case. National Grid contends that the September Order unlawfully deprives it this settlement right and that the September Order is inconsistent with precedent that holds that the Commission is bound by approved settlements and will only abrogate a settlement prospectively if such result is required by the public interest or otherwise necessary to avoid an unjust, unreasonable or unduly discriminatory result.<sup>9</sup> Finally, National Grid asserts that a multiple-issue proceeding is easier to settle than a one-issue proceeding, and so the issues National Grid has raised should be included in the hearing for purposes of supporting the Commission's policy to promote settlements.<sup>10</sup>

9. On November 27, 2018, Transco filed a Motion for Leave to Answer and Answer to the Request for Rehearing. On December 12, 2018, National Grid filed an Answer in opposition to Transco's Answer.

## III. Commission Determination

10. Rule 713(d)(1) of the Commission's Rules of Practice and Procedure prohibits an answer to a request for rehearing.<sup>11</sup> Therefore, we deny Transco's motion for leave and reject Transco's and National Grid's respective Answers.

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<sup>7</sup> Request for Rehearing at 5-10.

<sup>8</sup> *Id.* at 11-12. The Commission approved the referenced settlement in Docket No. RP12-993-000 on December 6, 2013. See *Transcontinental Gas Pipe Line Co., LLC*, 145 FERC ¶ 61,205, at P 8 (2013).

<sup>9</sup> Request for Rehearing at 11-12.

<sup>10</sup> *Id.* at 12-13.

<sup>11</sup> 18 C.F.R. § 385.713 (2018).

(continued ...)

11. We deny National Grid's Request for Rehearing, as discussed below.

12. At issue is not whether National Grid may raise its desired issues, but the time and manner in which National Grid may raise those issues. It is well established that "[t]he Commission, like other agencies, is generally master of its own calendar and procedures. It is within the Commission's purview to determine how best to allocate its resources for the most efficient resolution of matters before it. To permit petitioner/investigatees to dictate procedure to the Commission and to allocate agency resources in conformance with the investigatees' notions of efficiency would hamstring the agency in carrying out its statutory mandates."<sup>12</sup> Here, the Commission found that Transco's proposal is focused on the costs, functionalization, allocation and rate design that are associated with its proposed rate changes. The Commission, thus, reasonably determined that National Grid's imbalance management and data entry issues share little, if any, nexus with the rate issues that the Commission directed to be investigated at hearing. As stated in the September Order, cost allocation issues will be addressed in the hearing.<sup>13</sup> The service flexibility issues raised by National Grid potentially require an examination of operational feasibility and whether services have been provided equitably. Resolution of these issues would not affect the issues at the center of this case, which primarily relate to costs and cost allocation among services. Accordingly, we affirm that these National Grid issues are beyond the scope of the instant proceeding and that the Commission, in not including these issues in the hearing, acted well within its discretion to structure its proceedings in a manner to ensure administrative efficiency.

13. The precedent cited by National Grid does not require a different result. None of those cases involved an analogous situation where an intervening party was attempting to include imbalance management and data entry issues in a rate case.<sup>14</sup> Regardless, the issues the Commission permits to be included in a given hearing require a case-by-case

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<sup>12</sup> *Stowers Oil & Gas Co., et al.*, 27 FERC ¶ 61,001, at 61,001 (1984) (citations omitted).

<sup>13</sup> September Order, 164 FERC ¶ 61,236 at P 25.

<sup>14</sup> Request for Rehearing at 8-9 (citing *Transcontinental Gas Pipe Line Corp.*, 82 FERC ¶ 63,019, at 65,180-65,183, n.85 (1998) (permitting parties to address unbundling of rate services); *Transcontinental Gas Pipe Line Corp.*, 91 FERC ¶ 63,001, at 63,002-63,003 (2000) (permitting parties to make a record on various storage and rate schedule issues); *Tennessee Gas Pipeline Co.*, 72 FERC ¶ 63,005, at 65,116 (1995) (allowing parties to address hourly flexibility issues); *Transcontinental Gas Pipe Line Corp.*, 101 FERC ¶ 63,022 (2002) (permitting parties to make a record related to unbundling of various rate services); *Empire Pipeline, Inc.*, 164 FERC ¶ 61,076, at PP 12, 15 (2018) (setting for hearing capacity release issues)).

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determination and are a matter of broad discretion.<sup>15</sup> That the Commission has permitted parties to include other issues in rate cases in different contexts does not require the Commission to include National Grid's desired issues here. The instant filing is focused on costs, functionalization, allocation and rate design; therefore, limiting the hearing to issues with a nexus to those issues was appropriate. Contrary to National Grid's claims,<sup>16</sup> due process is not implicated given that National Grid may raise its desired issues in a complaint pursuant to NGA section 5<sup>17</sup> and section 18 C.F.R. § 385.206(b) (2018).

14. Nor is there any merit to National Grid's claim that the Commission has unlawfully denied National Grid the benefit of its settlement bargain with Transco.<sup>18</sup> National Grid contends that because the Settlement requires Transco to "file a NGA Section 4(e) general rate case no later than August 31, 2018,"<sup>19</sup> and the Commission has, National Grid asserts, previously allowed settlement parties to "raise a variety of issues" in subsequent NGA section 4 hearing proceedings, the Commission must allow National Grid to raise the issues of its choice in the hearing in this proceeding.<sup>20</sup> The referenced Settlement does not provide National Grid an implied or express right to have its concerns with imbalance management and data entry set for hearing in this case. Indeed, National Grid points only to the provision requiring Transco to file an NGA section 4 rate case; the Settlement does not speak to the settling parties' participation in such a case. Therefore, National Grid's claim that the Commission's ruling is inconsistent with the Commission's policy favoring settlements is meritless.<sup>21</sup>

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<sup>15</sup> See, e.g., *Mobil Oil Exploration & Producing Southeast, Inc. v. United Distrib. Cos.*, 498 U.S. 211, 230-31 (1991) ("An agency enjoys broad discretion in determining how best to handle related yet discrete issues in terms of procedures and priorities . . . . [A]n agency need not solve every problem before it in the same proceeding.") (citations omitted).

<sup>16</sup> Request for Rehearing at 9-10.

<sup>17</sup> 15 U.S.C. § 717d (2012).

<sup>18</sup> Request for Rehearing at 11-12.

<sup>19</sup> *Transcontinental Gas Pipe Line Co., LLC*, 145 FERC ¶ 61,205 at P 8.

<sup>20</sup> Request for Rehearing at 11.

<sup>21</sup> *Id.* at 12-13.

(continued ...)

15. Finally, National Grid's assertion that a multiple-issue proceeding is easier to settle than a one-issue proceeding<sup>22</sup> is unsupported and, as set forth above, it is within the Commission's purview to order its proceedings in a manner it finds most efficient. Here, the Commission affirms its finding that a hearing focused on the matters identified in the September Order will appropriately allow for administrative efficiency and therefore denies National Grid's request for rehearing.

The Commission orders:

National Grid's request for rehearing is denied, for the reasons discussed in the body of this order.

By the Commission. Commissioner McNamee is not participating.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>22</sup> *Id.*