172 FERC ¶ 61,060
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Transcontinental Gas Pipe Line Company, LLC   Docket No. RP20-779-001

ORDER ADDRESSING ARGUMENTS RAISED ON REHEARING

(Issued July 16, 2020)

1. This order addresses a request for rehearing of an unpublished delegated letter order issued on April 28, 2020, in Docket No. RP20-779-000. The delegated order accepted a tariff record filed by Transcontinental Gas Pipe Line Company, LLC (Transco) to revise the minimum bid periods required for open seasons for available capacity.

2. Pursuant to *Allegheny Defense Project v. FERC*,[1] the rehearing request filed in this proceeding may be deemed denied by operation of law. As permitted by section 19(a) of the Natural Gas Act,[2] however, we are modifying the discussion in the April 28, 2020 order and continue to reach the same result in this proceeding, as discussed below.[4]

Background

3. On April 10, 2020, Transco filed a revised tariff record to modify the minimum bid periods required for open seasons for available capacity in section 49 of the General Terms and Conditions of its tariff (GT&C).[1] Transco states that section 49 provides that Transco shall have the right to solicit bids for available capacity in an open season for at least the following periods: (1) one business day for capacity available for one month or less; (2) five business days for capacity available for more than one month but less than one year; and (3) 30 business days for capacity available for more than one year.

4. Transco proposed to revise section 49 of the GT&C to shorten the minimum bid periods to the following periods: (1) four hours for capacity available for one month or less; (2) two business days for capacity available for more than one month but less than

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[1] Transco states that section 49 sets forth procedures for allocating existing firm capacity that becomes available on Transco's system other than through capacity release and not otherwise allocated pursuant to the right of first refusal procedures contained in its tariff.

one year; and (3) five business days for capacity available for more than one year. Transco stated that the proposed revisions are consistent with Commission precedent and policy.

5. Transco's filing was not protested and on April 28, 2020, Transco's tariff record was accepted to be effective May 11, 2020, by an unpublished delegated letter order. On May 11, 2020, Duke Energy Carolinas, LLC, Duke Energy Progress, LLC, and Duke Energy Florida, LLC (collectively, Duke Energy) filed a request for rehearing of the April 28, 2020 delegated letter order.

6. On May 22, 2020, Transco filed a motion for leave to answer and answer to Duke Energy's rehearing request. Rule 713(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d) (1) (2019), prohibits an answer to a request for rehearing. Accordingly, we deny Transco's motion to answer and reject Transco's answer to Duke Energy's rehearing request.

Request for Rehearing

7. Duke Energy asserts there is no justification in the record for authorizing Transco to shorten the minimum bid period during open seasons for capacity available for more than one year. Duke Energy contends Transco's April 10 filing simply states that the shortened bid periods "are longer than capacity release timelines, and thus, provide sufficient time for shippers to evaluate the posted capacity."[2] Duke Energy submits that Transco ignores the fact that contracting for released capacity and contracting for long-term firm pipeline capacity are different business decisions, and that long-term capacity procurements generally require strategic and financial evaluations that are very difficult to complete in a short timeframe.

8. Duke Energy also asserts that, under Transco's proposal, a shipper contemplating a long-term service agreement with a pipeline would have only five days to decide whether to compete in an open season. Duke Energy argues that this is simply not enough time for a regulated utility to make such a critical business decision. Duke Energy claims that bids for transportation capacity available for over one year involve much higher transaction values than bids for short-term capacity, as these capacity contracts could have values in the billions of dollars. Duke Energy contends that such bids require escalating levels of senior management and potentially necessitate board of director-level approval that may be difficult to obtain within five days. Duke Energy asserts that reducing the long-term capacity bid period to five days would unnecessarily restrict customer access and participation in open season solicitations for available transportation capacity.

[2] Transco's April 10 Filing at 2.

9. Accordingly, on rehearing, Duke Energy requests that the Commission require Transco to provide at least 30 days advance notice of an upcoming open season for capacity available for greater than one year, with adequate details of the open season (such as the receipt point(s), delivery point(s), term, and volume) so that shippers can begin a review and a potential approval process. Duke Energy states that this advance notice will ensure that all shippers have adequate time to prepare for the bid period.

Discussion

10. We find that Transco's tariff revisions to the minimum bid periods required for open seasons for available capacity were adequately supported and consistent with Commission policy and precedent. As Transco indicated in its filing, the minimum bid periods it proposed were similar to bid periods approved by the Commission for other pipelines.[3]

11. Duke Energy argues for longer open season bid periods based on the claim that its internal procedures for evaluating gas pipeline transportation contracts may not allow for approval and completion of transactions within the given timeframes. This claim is unavailing. Assertions that a potential shipper's internal business practices may require more time to evaluate a long-term service agreement with a pipeline does not necessitate finding that Transco's proposed minimum bid periods are unjust or unreasonable. The Commission addressed similar arguments previously when it approved shorter open season periods for available firm capacity. In *Natural Gas Pipeline Company of America,* where the Commission accepted a similar proposal to shorten open season bid periods, the Commission stated "[t]he Commission finds that Natural's posting and bidding time periods reflect the pace, intensity, and speed of today's gas transactional market. The requests of Indicated Shippers and Industrials to further extend the bid

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[3] *Columbia Gas Transmission, LLC*, 148 FERC ¶ 61,218 (2014) (allowing four-hour open seasons for capacity available for 31 days or less, one-day open seasons for capacity available for less than five months but more than 31 days, three-day open seasons for capacity available for less than one year but more than five months, and five-day open seasons for capacity available for one year or more); *Trailblazer Pipeline Co.*, 103 FERC ¶ 61,225 (2003), *order on reh'g & compliance filing*, 108 FERC ¶ 61,049 (2004) (allowing five-hour open seasons for capacity available for less than five months); *Southern Natural Gas Co.*, 96 FERC ¶ 61,008 (2001) (allowing three-day open seasons for capacity available for less than one year); *National Fuel Gas Supply Corp.*, 88 FERC ¶ 61,173 (1999) (allowing one-day open seasons for capacity available for less than five months and three-day minimum open seasons for capacity available for less than one year but more than five months).

periods from the current tariff indicates an unrealistic view of Natural's competitive position and the needs of today's gas markets."[4]

12. In finding the shorter bid periods appropriate in *Natural*, the Commission further stated:

> Because of the fast changing physical and financial gas markets, shippers who want to hedge their physical deals with financial transactions need to be able to complete the hedge transaction as soon as possible after completing the physical deal. If there is a long period of time between when a bid is submitted and capacity awarded, it may be more difficult, or impossible, to do an appropriate hedge deal in the financial market due to changes in both the physical and financial market during the extended period.[5]

13. Duke Energy has not shown that Transco's open season time periods are inconsistent with Commission policy or precedent or that Transco's open season time periods are unjust and unreasonable and require any modification. Accordingly, we disagree with the request for rehearing and confirm the April 28, 2020 order.

The Commission orders:

In response to Duke Energy's request for rehearing, the April 28, 2020 order is hereby modified and the result sustained, as discussed in the body of the order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

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[4] 93 FERC ¶ 61,075 at 61,204 (2000) (*Natural*).

[5] *Id*.