

132 FERC ¶ 61,034  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
John R. Norris, and Cheryl A. LaFleur.

Transcontinental Gas Pipe Line Corporation

Docket No. RP01-245-031

ORDER GRANTING REHEARING

(Issued July 15, 2010)

1. On March 22, 2010, Transcontinental Gas Pipe Line Corporation (Transco) and Florida Power Corporation d/b/a Progress Energy Florida, Inc. (PEF) filed requests for clarification or, in the alternative, rehearing of the Commission's February 18, 2010 Order in the captioned docket.<sup>1</sup> In the February 18, 2010 Order, we accepted a filing by Transco to establish a just and reasonable rate under section 5 of the Natural Gas Act (NGA) with respect to pooling at Station 85. As discussed below, we grant rehearing to adjust the just and reasonable rate to accommodate changes in the use of Transco's system at Station 85 pooling since the record in this proceeding was established.

**Background**

2. The instant proceeding has an extensive background<sup>2</sup> originating in a NGA section 4 rate case filed by Transco on March 1, 2001, which the Commission accepted and suspended subject to the outcome of hearing procedures.<sup>3</sup> The instant proceeding

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<sup>1</sup> *Transcontinental Gas Pipe Line Corp.*, 130 FERC ¶ 61,109 (2010) (February 18, 2010 Order).

<sup>2</sup> *Transcontinental Gas Pipe Line Corp.*, 127 FERC ¶ 61,206, at P 3 (2009) (May 29, 2009 Order); February 18, 2010 Order, 130 FERC ¶ 61,109, at P 2-10 (2009).

<sup>3</sup> *Transcontinental Gas Pipe Line Corp.*, 94 FERC ¶ 61,360, *order on reh'g*, 95 FERC ¶ 61,268 (2001).

focuses on the last remaining issue in this proceeding – a challenge under section 5 of the NGA to the operation and pricing of Transco’s pooling point at Station No. 85.<sup>4</sup>

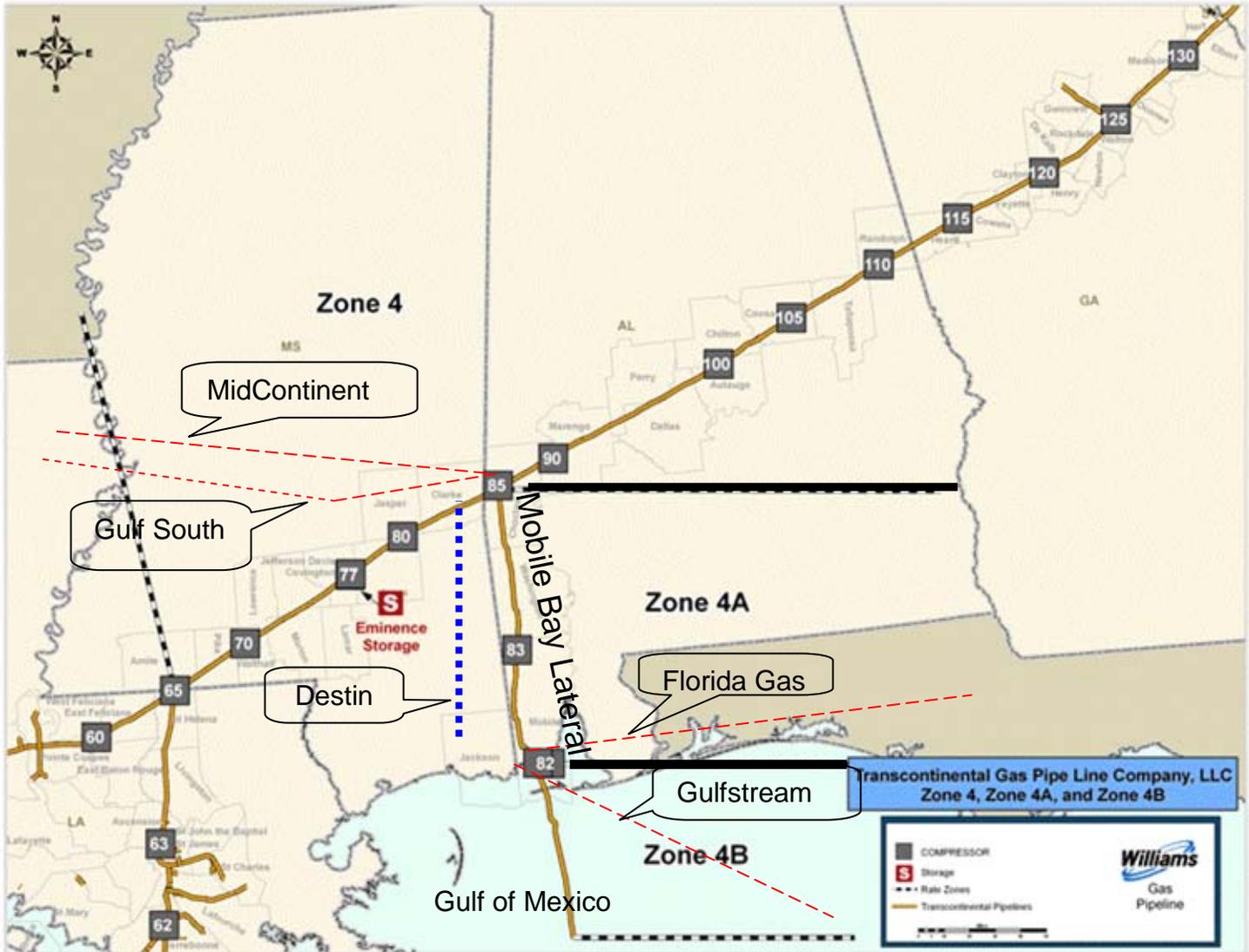
3. Transco has eight physical pooling points on its system, where a shipper may aggregate supplies it has transported from any receipt point on Transco’s system for disaggregation to other shippers. Transco utilizes a physical pooling model in which gas must be transported to the pooling point. One of these pools is at Station 85 which is located on Transco’s mainline in the middle of Rate Zone 4. Transco’s Mobile Bay Lateral also interconnects with Transco’s mainline at Station 85, but the Mobile Bay Lateral is in a separate rate zone, known as Zone 4A/4B. As a result, shippers on the Mobile Bay Lateral may deliver gas directly to the Station 85 pooling point pursuant to their contracts for service in Zone 4A/4B, without paying a Zone 4 rate. The July 2002 Settlement reserved the issue whether this discriminated against shippers bringing gas onto Transco’s system from unaffiliated pipelines who must pay a Zone 4 rate to reach the Station 85 Pool.

4. The following graphically portrays the current configuration and interconnections relating to Station 85 and the Mobile-Bay Lateral.<sup>5</sup>

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<sup>4</sup> After this initial rate case was set for hearing, a settlement resolving many issues in this matter was subsequently approved by the Commission in July 2002, reserving fourteen issues for hearing, *Transcontinental Gas Pipe Line Corp.*, 100 FERC ¶ 61,085 (2002) July 2002 Settlement. Subsequently, on orders on the Administrative Law Judge’s (ALJ) decision, *Transcontinental Gas Pipe Line Corp.*, 106 FERC ¶ 61,299 (2004), *order on reh’g*, 112 FERC ¶ 61,170 (2005), *order on reh’g*, 115 FERC ¶ 61,268 (2006), *affirming in part and reversing in part, Transcontinental Gas Pipe Line Corp.*, 101 FERC ¶ 63,022 (2002), and, in orders approving further settlements, *Transcontinental Gas Pipe Line Corp.*, 101 FERC ¶ 61,298 (2002) and *Transcontinental Gas Pipe Line Corp.*, 117 FERC ¶ 61,232 (2006), the Commission resolved all the reserved issues, except the issue of whether Transco’s operation of its Station 85 pool is unjust, unreasonable, and unduly discriminatory.

<sup>5</sup> The map was modified from Transco’s Internet posting to represent the third party pipeline interconnects referenced in Transco’s March 22, 2010 filing. <http://www.1line.williams.com/Files/Transco/TranscoInfoPostingFrameset.html>.



5. At the time of the hearing in this case, Destin Pipeline Company, LLC (Destin) was the only unaffiliated pipeline interconnecting with Transco in Zone 4. Accordingly, the record in this proceeding focused on the issue of the rates assessed pooling transactions for gas coming into Transco on Destin compared with the rates for pooling paid by shippers coming north on the Mobile Bay Lateral to move gas downstream on the Transco mainline.<sup>6</sup>

6. In an order issued December 26, 2007, the Commission concluded that Transco's tariff was unjust and unreasonable and unduly discriminatory because it charged Zone 4

<sup>6</sup> As of the time the record of this case was developed, several of the interconnecting (dotted line) pipelines had not been built.

fuel and usage charges twice when gas from Destin was pooled at Station 85, while only charging a single Zone 4 fuel and usage charge for gas pooled at Station 85 for gas emanating from the Mobile Bay Lateral.<sup>7</sup> The Commission found that charging the fuel and usage charges twice for pooled receipts was unjust and unreasonable because it discouraged the use of pooling. The Commission concluded that when using a physical pooling model, it is unjust and unreasonable for the pipeline to charge for both (1) the shipment within the zone to the pooling point, and (2) the shipment away from the pooling point.<sup>8</sup>

7. In the May 29, 2009 Order, the Commission denied rehearing of this finding.<sup>9</sup> The May 29, 2009 Order also rejected a compliance filing by Transco designed to establish the just and reasonable rate for the Station 85 Pool. The Commission determined that Transco's proposal to create two separate pools and to prohibit transfers between these two pools had the effect of unduly limiting the ability of shippers to pool gas because this proposal prevented the shippers from pooling gas transported to Station 85 over the Zone 4 mainline with gas transported to Station 85 via the Mobile Bay Lateral.<sup>10</sup> The May 29, 2009 Order therefore required Transco to make a compliance filing that would implement a billing methodology to impose a single usage and fuel charge either to all gas scheduled to be delivered to the Station No. 85 pooling point or all

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<sup>7</sup> *Transcontinental Gas Pipe Line Corp.*, 121 FERC ¶ 61, 294 (2007) (December 26, 2007 Order).

<sup>8</sup> *Id.* P 56-57, *Citing Standards for Business Practices of Interstate Natural Gas Pipelines*, FERC Stats. & Regs., Proposed Regulations 1988-1998 ¶ 32,527, at 33,351 (1997) (Order No. 587-F) (“when a pool exists in a rate zone, the charge for shipment in that zone must be incurred either for shipment to the pool or shipment out of the pool. The marketers and producers advocating paper pooling do not provide sufficient justification for imposing the transportation charge on the outbound transportation in all situations”).

<sup>9</sup> May 29, 2009 Order, 127 FERC ¶ 61, 206 at P 23.

<sup>10</sup> The Commission stated in the May 29, 2009 Order that:

Transco's proposal to create separate Station 85 and Station 85 Mainline Pools and prohibit transfers between the two pools has the effect of preventing shippers from pooling gas transported to Station 85 over the Zone 4 mainline with gas transported to Station 85 over the Mobile Bay Lateral. That is contrary to the Commission's pooling policy discussed earlier in this order. 127 FERC ¶ 61,206 at P 71.

gas scheduled to be received from Station No. 85, or some other billing method consistent with the May 29, 2009 Order.

8. On June 29, 2009, Transco filed revised tariff sheets comprising two separate billing options to comply with the Commission's May 29, 2009 Order: Option 1 would charge the Zone 4 usage and fuel rate for withdrawal of the gas from the Station 85 Pool; Option 2 would impose the Zone 4 usage and fuel rate for gas delivered to the pool. Transco also requested a waiver of section 284.10(c)(5)(ii) of the Commission's Regulations and confirmation that when Transco provides transportation on its Zone 4 mainline facilities without assessing any Zone 4 usage and fuel charges it will not be in violation of the Commission's Regulations or the provisions of its tariff.

9. On February 18, 2010, the Commission issued an order accepting the tariff sheets containing Transco's Option 1, as in compliance with the May 29, 2009 Order and rejected its request for a waiver of the regulations. The Commission found that Transco had not justified its request for a waiver, finding that Transco could charge Zone 4 usage charges when gas is withdrawn from the Station 85 Pool:

No Zone 4 fuel and usage charges would be assessed against the transportation of gas to the Station 85 Pool. However, Transco has failed to explain why it cannot assess Zone 4 fuel and usage charges to the delivery transaction. The shipper taking delivery out of the pool would pay the Zone 4 fuel and usage charges in connection with its use of the pool. Thus, fuel and usage charges for Zone 4 would be collected.<sup>11</sup>

#### **Requests for Clarification or, in the Alternative, Rehearing**

10. In its March 22, 2010, request for clarification or, in the alternative, rehearing of the Commission's February 18, 2010 Order, Transco requests that the Commission clarify that the February 18, 2010 Order unconditionally accepted Transco's Option 1 proposal which it claims would not impose Zone 4 usage and fuel charges with respect to certain transactions -- gas pooled at Station 85 which will move south on the Mobile Bay Lateral. Transco requests that if the Commission denies such clarification, then the Commission clarify the requirements of the February 18, 2010 Order with respect to the rates and fuel charges that apply to several specific examples it has set forth in its request. Lastly, Transco argues that if the February 18, 2010 Order requires Transco to assess Zone 4 fuel and usage charges on gas that is never transported on Transco's Zone 4 facilities, Transco seeks rehearing of this requirement.

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<sup>11</sup> February 18, 2010 Order, 130 FERC at P 26.

11. Transco points out that gas in the Station 85 Pool may be sourced from and delivered to a variety of locations.<sup>12</sup> Transco states that:

[c]urrently, transactions scheduled for receipt and delivery at the Station 85 Pool from either the mainline in Zone 4 or the Mobile Bay Lateral are assessed the applicable usage and fuel charges. If gas is received at the Station 85 Pool and delivered on the mainline, the receipt point (Station 85 Pool) is considered to be in Zone 4 and the transaction is charged accordingly. If gas is received at the Station 85 Pool and delivered on the Mobile Bay Lateral, the receipt point (Station 85 Pool) is considered to be in Zone 4A and the transaction is charged accordingly. The same logic holds true for delivery transactions at the Station 85 Pool. If gas is delivered from the mainline to the Station 85 Pool, the delivery point is considered to be in Zone 4. If gas is delivered from the Mobile Bay Lateral to the Station 85 Pool, the delivery point is considered to be in Zone 4A. Transactions can occur between the Station 85 Pool and the third party pipeline interconnects at that location. These transactions are not assessed usage or fuel charges. Transco Clarification Request at pp. 7-8 (emphasis in original).

Transco argues that the Commission rejected Transco's assertions that Option 1 "inevitably leads to the provision of transportation to some shippers without the collection of Zone 4 fuel and usage charges" and Transco's request for waiver.<sup>13</sup> Transco asserts that the Commission stated that "the shipper taking delivery out of the pool would pay the Zone 4 fuel and usage charges in connection with its use of the pool. Thus, fuel and usage charges for Zone 4 would be collected."<sup>14</sup> Transco asserts that this statement

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<sup>12</sup> Transco asserts that gas pooled at the Station 85 Pool can be sourced from: (1) mainline receipt points upstream and downstream of the Station 85 Pool; (2) receipt points in Zones 4A (or 4B) on the Mobile Bay Lateral; and (3) the third party pipeline interconnects that are located at the same milepost as the Station 85 Pool. Gas received at the Station 85 Pool can be delivered to: (1) the mainline in Zone 4 (or to delivery points in other zones that require use of the Zone 4 mainline); (2) delivery points in Zone 4A (or 4B) on the Mobile Bay Lateral; and (3) the third party pipeline interconnects that are located at the same milepost as the Station 85 Pool (by displacement). Transco Request for Clarification at p.7

<sup>13</sup> February 18, 2010 Order, 130 FERC at P 27.

<sup>14</sup> February 18, 2010 Order, 130 FERC at P 26.

does not comport with how rates and charges are proposed to be assessed pursuant to the Option 1 tariff sheets. Transco also asserts that the Commission did not require Transco to modify Option 1 to accomplish the collection of Zone 4 charges on certain volumes received at the Station 85 Pool for delivery to Zone 4A or 4B (the Mobile Bay Lateral) or to one of the third party interconnects located at Station 85. Therefore, Transco seeks clarification that the February 18, 2010 Order unconditionally accepted Transco's Option 1 tariff sheets and that implementing the Option 1 proposal will not constitute a violation of the Commission's regulations or Transco's tariff.<sup>15</sup>

12. Moreover, Transco argues that if the February 18, 2010 Order requires Transco to assess Zone 4 fuel and usage charges on gas that is never transported on Transco's Zone 4 facilities, then Transco seeks rehearing of this requirement. Transco argues that if the February 18, 2010 Order requires Transco to modify the Option 1 proposal such that Transco is required to assess Zone 4 fuel and usage charges on transactions that do not use Transco's Zone 4 mainline facilities, then Transco seeks rehearing of this requirement on the basis that it is arbitrary and capricious.

13. Transco states that the February 18, 2010 Order (at P 27) asks why Transco simply does not charge the Zone 4 usage and fuel rate on transactions receiving gas at the Station 85 Pool and transporting that gas to Zones 4A or 4B. "Transco has not explained why for a pooled transaction in which one shipper transports gas from a Zone 4 receipt point to the Station 85 pooling point, and that gas is picked up by another shipper for delivery in Zones 4A or 4B, it cannot assess the same 2.09 percent rate for the shipper picking up the gas at the pooling point."

14. Transco responds that the Commission's question contemplates two separate transactions: one that involves transportation for one shipper to the 85 pooling point and a second transaction that involves transportation for another shipper from the 85 pooling point to delivery points in Zones 4A or 4B. Transco argues that it would not be appropriate to assess such a charge and Transco is not authorized by its tariff or the

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<sup>15</sup> Transco also requests the Commission to modify Ordering Paragraph (A) of its February 18, 2010 Order to permit Transco to implement the Option 1 revised tariff sheets on the first day of the first month following at least 30 days after a final Commission order in this proceeding. Transco states that if changes to the accepted Option 1 tariff sheets are required to comply with the February 18, 2010 Order, Transco requests 60 days from the date of a final Commission order in this proceeding to incorporate the modifications into its business system with such modifications to be implemented effective on the first day of the month following the close of the 60-day period.

Commission's regulations to assess a transportation charge associated with Zone 4 mainline facilities on the second transaction that does not use any Zone 4 facilities.

15. Transco adopts the Comments of Indicated Shippers on Technical Conference filed August 18, 2006 in the instant proceeding to explain why it is not appropriate for Transco to impose Zone 4 mainline rates and charges on shippers moving gas from the Station 85 Pool for delivery on the Mobile Bay Lateral. Transco asserts that these arguments against assessing a Zone 4 charge to shippers using only the Mobile Bay Lateral and the Station 85 Pool focus on the assertion that the Mobile Bay shippers' rates were not reserved for hearing in the Settlement Agreement and, therefore, are not properly before the Commission in this proceeding; that there is no lawful basis to assess Zone 4 charges to shippers that do not transport gas in Zone 4; that it is unjust and unreasonable to assess Zone 4 charges to shippers that do not transport gas in Zone 4; and that to assess a Zone 4 charge to shippers that do not transport gas in Zone 4 would be unduly discriminatory and inconsistent with the Commission's pooling policies.<sup>16</sup> In addition to these arguments, Transco asserts that the Commission's suggestion in the February 18, 2010 Order that Transco should assess Zone 4 usage and fuel charges on Mobile Bay shippers contradicts the Commission's holding in the December 26, 2007 Order that "held that no such charge would be appropriate, because the Mobile Bay shippers do not receive any transportation service in Zone 4."<sup>17</sup>

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<sup>16</sup> Transco states that the 2.09 percent rate is the current fuel retention percentage authorized in Transco's tariff. Transco clarifies that the usage rate is a separately stated rate and the usage rates applicable to transportation scheduled from Zone 4 to 4 and Zone 4A to 4A, respectively, are different. Transco asserts that the Commission is correct that the current fuel retention percentage applicable to firm and interruptible transportation transactions both for Zone 4 to 4 and Zone 4 to 4A transportation is 2.09 percent. However, Transco states that this will change effective May 1, 2010, when the Mobile Bay South Expansion Project certificated in Docket No. CP08-476 is expected to be placed in-service. After that date, all transportation in Zone 4A will be assessed the Zone 4A fuel retention factor. Under Transco's currently effective fuel retention percentages, transactions received in Zone 4 and delivered in Zone 4 will continue to be assessed fuel retention of 2.09 percent but transactions received in Zone 4 and delivered in Zones 4A or 4B will be assessed fuel retention of 2.60 percent. Transco states that, on or about May 1, 2010, the fuel retention percentage applicable to transportation scheduled between a Zone 4 mainline receipt point and the Station 85 Pool will be different from the fuel retention percentage applicable to transportation scheduled between that same Zone 4 mainline receipt point and Zone 4A.

<sup>17</sup> December 26, 2007 Order, 121 FERC ¶ 61, 294 at P 68.

16. On March 22, 2010, PEF filed for clarification, or in the alternative, rehearing of the February 18, 2010 Order. PEF requests that the Commission clarify whether it intended in the February 18, 2010 Order that Transco charge Zone 4 usage (\$0.01522) and fuel retention (2.09 percent) in addition to its Zone 4A to 4A recourse rates to Mobile Bay South shippers that do not receive any transportation service in Zone 4. PEF argues that while Transco should not be permitted to charge Zone 4 usage and fuel twice for transactions using the Station 85 Pool simply because it has a pooling point in the middle of Zone 4, the February 18, 2010 Order ignores the fact that Zone 4A to Zone 4A usage and fuel rates are simply an alternative or substitute for Zone 4 usage and fuel when pooling transactions only involve capacity moving along the Mobile Bay Lateral (and not the Zone 4 mainline facilities). PEF argues that it would be improper for Transco to assess Zone 4 usage and fuel charges on receipt or delivery quantities into the Station 85 Pool from the Mobile Bay Lateral and that these charges would effectively double the fuel and usage charges for Zone 4A shippers moving fuel exclusively on Zone 4A facilities.

17. PEF states that if the Commission fails to grant its requested clarification, PEF requests rehearing of the February 18, 2010 Order. PEF states that the February 18, 2010 Order erred in accepting Transco's Option 1 tariff sheets without modification because Transco cannot assess Zone 4 fuel and usage charges on transactions moving from the Station 85 Pool to the Mobile Bay Lateral or to third-party pipeline interconnects located at Station 85. PEF argues that Transco should not be permitted to assess Zone 4 fuel and usage charges to shippers using only the Mobile Bay Lateral and the Station 85 Pool because there is no lawful basis to assess such Zone 4 charges to shippers that do not transport gas in Zone 4. PEF joins Transco and argues that the Commission's suggestion that Transco should assess Zone 4 usage and fuel charges on Mobile Bay shippers directly contradicts its earlier holding in its December 26, 2009 Order "that no such charge would be appropriate, because the Mobile Bay shippers do not receive any transportation service in Zone 4."<sup>18</sup>

18. PEF also argues that the Commission erred in accepting Transco's Option 1 tariff sheets without modification because Mobile Bay South Expansion shippers who move gas from the Station 85 Pool to the Mobile Bay Lateral, or to third-party pipeline interconnects located at Station 85, would only be assessed Zone 4A to 4A fuel and usage charges under the tariff. PEF argues that the February 18, 2010 Order asks why Transco does not charge the Zone 4 usage and fuel rate on transactions that receive gas at the Station 85 Pool and which are transported to Zones 4A or 4B. PEF contends that to do so would be contrary to the terms upon which shippers relied in subscribing to Mobile Bay Lateral service. PEF argues that such capacity was subscribed to by PEF and other

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<sup>18</sup> *Id.*

shippers in the belief that transportation which only utilized the Mobile Bay Lateral would be charged Zone 4A to 4A usage and fuel only based upon information contained in the Mobile Bay Expansion open season materials and assertions by Transco. PEF states that it relied on the fact that Mobile Bay Expansion service would only incur Zone 4A fuel and usage charges when it determined to subscribe to this capacity.

19. On April 2, 2010, the Florida Municipal Power Agency (FMPA) filed a request to intervene out of time and stated that good cause exists to grant it leave to intervene in this proceeding. FMPA states that it has entered into a binding precedent agreement with Transco for firm capacity to be created by the Mobile Bay South II Expansion Project, and that FMPA will be directly affected by the outcome of this proceeding. FMPA supports Transco's explanation with regard to how it will impose Zone 4 fuel and usage charges associated with gas pooled at Station 85 and its associated request that the Commission clarify that the Commission's February 18, 2010 Order did not require Transco to make any additional conforming tariff changes to the Option 1 tariff sheets. In support, FMPA argues that Transco cannot charge Zone 4 fuel and usage charges -- let alone any Zone 4 charge -- to Zone 4A/4B shippers who receive pooled gas at Station 85 because those shippers are not taking Zone 4 service because it is not just and reasonable to impose a Zone 4 charge upon a shipper who does not have Zone 4 capacity.

20. Southern Company Services, Inc. (SCS) filed an answer to the motions for clarification of Transco and PEF. SCS argues that the transactions referenced by Transco and PEF that utilize the Mobile Bay Lateral and other pipeline interconnects are not subject to Zone 4 usage and fuel charges because such transactions do not involve Zone 4 mainline service. SCS requests that the Commission reaffirm that transactions utilizing the Mobile Bay Lateral to deliver gas to or receive gas from the Station 85 Pool are not to be charged with Zone 4 usage or fuel charges because such transactions do not involve Zone 4 transportation. SCS requests that the Commission reaffirm that deliveries of gas from the Station 85 Pool by displacement to other pipeline interconnects should not incur Zone 4 usage and fuel charges because they do not involve Zone 4 transportation. SCS argues that such deliveries do not result in any forward haul on Zone 4 facilities downstream of the Zone 4 pooling point and, therefore, such volumes are not transported on Transco's mainline.

21. Consolidated Edison Company of New York, Inc. and Philadelphia Gas Works (Con Ed) reply to the subject motion for clarification and request that the Commission reject Transco's clarification requests because granting such requests would result in Transco providing transmission services without charging for the variable costs, including fuel, of those services. Con Ed argues that Transco's current clarification

requests make it clear that the Option 1 tariff sheets would result in certain Zone 4 transportation escaping the imposition of usage and fuel charges.<sup>19</sup>

22. ConEd argues that if certain transactions are exempted from paying Zone 4 usage and fuel charges, the underlying variable costs will be borne by Transco's other customers, e.g., through Transco's fuel tracker. Con Ed argues that such cross-subsidies are implicitly prohibited by Order No. 587-F and should be prohibited explicitly by the Commission in this proceeding. ConEd argues that Transco's "clarification" is actually a request for waivers of Commission regulations and Transco's tariff which is unsupported by facts or arguments in support of such a waiver.

23. ConEd argues that the Commission should consider the creation of two pools, one for Zone 4 and another for Zone 4A. ConEd argues that gas would enter and depart the Zone 4 and Zone 4A Pools only from Zones 4 and 4A respectively, and would be charged usage rates and fuel only when departing the pool. ConEd submits that customers would be able to transfer gas between the two pools only upon payment of the usage rates and fuel for the upstream zone. The pool transfer charge for gas moving from the Zone 4 Pool to the Zone 4A Pool would be the Zone 4 usage and fuel rates and the pool transfer charge for gas moving from the Zone 4A Pool to the Zone 4 Pool would be the Zone 4A usage and fuel rates. Gas exiting the pools would continue to be charged the usage and fuel rates for transportation downstream of the pool. ConEd asserts that such an approach would be: (1) consistent with Order No. 587-F; (2) consistent with the Commission's regulations, and (3) consistent with the Commission's pooling policy because it permits transfers between pools and administratively feasible.

24. BP Energy Company (BP) requests that the Commission reject ConEd's filing. BP argues that ConEd's filing is merely a collateral attack on the Commission's findings in its February 18, 2010 Order for which ConEd did not properly seek rehearing. First, BP argues that if ConEd wished to object to the Commission's approval of Option 1, or disagreed with the Commission findings it should have sought rehearing of the February 18, 2010 Order. Second, BP asserts that ConEd's suggested option that Transco set up separate pools suffers from the same defects as the previous two pool option that the Commission already rejected in this proceeding.<sup>20</sup>

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<sup>19</sup> ConEd also argues that that February 18, 2010 Order was incorrect in its finding that it was unnecessary to grant waiver of section 284.10(c)(5)(ii) of the Commission's regulations as proposed by Transco because Transco would not be providing transportation to shippers without their incurrence of the Zone 4 usage charge for the transportation.

<sup>20</sup> On April 29, 2010, ConEd answers these allegations by BP and contends that its  
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### **Procedural Issues**

25. Both PEF and FMPA request that the Commission grant late intervention and permit them to participate in this proceeding. Given the ongoing nature of this proceeding, the Commission's action taken below and that both PEF and FMPA are recent Mobile Bay South expansion customers, the Commission finds good cause to allow their participation pursuant to its regulations.<sup>21</sup> The Commission will accept ConEd's filing, because it casts light on some of the new issues raised by Transco in its clarification and rehearing request.

### **Discussion**

26. The Commission will grant rehearing of its February 18, 2010 Order solely with respect to the NGA section 5 just and reasonable rate it adopted for pooling at Station 85 and will establish a new just and reasonable rate as discussed below. This case has become more complicated as the role of the Mobile Bay Lateral has changed from that of a lateral feeding the mainline to one that can move gas in both directions. Station 85 has become a market center<sup>22</sup> in which gas enters Transco's system from other pipelines and can be moved either downstream on the Transco mainline or South on the Mobile Bay Lateral to pipeline interconnects at the southern portion of the lateral. While these changes are beyond the original trial record of this proceeding, the Commission under NGA section 5 must design a just and reasonable rate to be "thereafter observed" and, therefore, must include in its consideration the manner in which such a rate will be applied to the present configuration of the Transco system.<sup>23</sup>

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filing is not a collateral attack on the Commission's findings in its February 18, 2010 Order because it states no more than Transco did in its motion for clarification. Further, it notes that Transco previously proposed to create two separate pools at Station 85 and to prohibit transfers between those pools but that the Commission found this contravened its policies which require pipelines to permit transfers between pools. ConEd asserts that in the option it suggests, transfers would be permitted between the pools.

<sup>21</sup> 18 CFR § 385.214 (2010).

<sup>22</sup> 18 CFR § 284.7(3) (2010) ("An interstate pipeline that offers transportation service on a firm basis under subpart B or G of this part may not include in its tariff any provision that inhibits the development of market centers"). A market center is defined as "an area where gas purchases and sales occur at the intersection of different pipelines." 18 CFR § 284.1 (2010).

<sup>23</sup> 15 U.S.C. 717d (2006).

27. Pooling is simple in concept, but oftentimes difficult to implement. As we explained in the prior orders,<sup>24</sup> pooling permits producers, marketers, and shippers to aggregate gas from multiple individual wells and receipt points at a single point for the purpose of sale.<sup>25</sup> Pooling therefore facilitates more efficient pipeline scheduling because it eliminates the need for a buyer to specify specific quantities of a seller's gas at specific receipt points. Instead, the buyer can nominate an aggregate gas quantity from the seller's pool.<sup>26</sup>

28. In order for pooling to provide this efficiency, the overall rates charged for pooled transactions should be no different than the rates assessed if the parties utilized individual transactions at specific receipt and delivery points. This was the problem with Transco's existing tariff insofar as it assessed two Zone 4 fuel and usage charges to pooled transactions when a specific receipt point transaction would result in only a single Zone 4 fuel and usage charge. By the same token, pooling also should not result in a transaction that avoids appropriate charges. In short, a pooled transaction should be assessed the same charges as would apply if the shippers declined pooling and bought and sold gas at specific receipt points. The focus in designing a rate for pooling is not on the charges assessed to individual shippers and which shipper pays how much, but on whether the appropriate charges are assessed to the pooled transaction as a whole.<sup>27</sup> The parties involved in the pooled transaction can allocate these costs between them in their gas contract.

29. Thus, as we pointed out in the prior orders, if a shipper could buy gas at the physical receipt point at Destin and transport the gas in Zone 4 paying only a single Zone 4 fuel and usage rate, the pooled transaction at Station 85 should not be assessed more than a single Zone 4 fuel and usage rate.<sup>28</sup> A double charge would discourage the use of

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<sup>24</sup> May 29, 2009 Order, 127 FERC ¶ 61,206.

<sup>25</sup> Pooling also permits buyers to aggregate purchased gas.

<sup>26</sup> For example, if Buyer A is seeking to purchase 1000 Dth of gas from Seller 1, without pooling, Buyer A might need to schedule 200 Dth from receipt point X, 200 Dth from receipt point Y, and 600 Dth from receipt point Z. With pooling, Seller 1 aggregates its gas from all its receipt points to its pool, and Buyer A can simply nominate the full 1000 Dth from Seller 1's pool.

<sup>27</sup> On most pipelines, producers and shippers can pool gas from multiple receipt points without charge, and the appropriate charge is assessed when the gas is withdrawn from the pool by the purchasing shipper. This is the same charge the shipper would pay if it bought the gas at individual receipt points.

<sup>28</sup> Similarly, if the seller transports gas from Zone 4 to the Zone 5 boundary and  
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pooling, since parties would save money by using individual receipt point transactions over pooled transactions and therefore such a double charge is unjust, unreasonable, and unduly discriminatory.

30. In its June 29, 2009, compliance filing to establish just and reasonable charges for pooled transactions at Station 85, Transco proposed, and we adopted, a rate that in the above transaction would assess the Zone 4 fuel and usage rate only to the shipper withdrawing gas from the Station 85 Pool. No fuel and usage charges would be assessed to the movement of gas from the Destin interconnect to the Station 85 Pool. Such a rate structure treats the pooling transaction similarly from a rate standpoint to a transaction in which the buyer picks gas up at the Destin interconnect point and pays a single Zone 4 fuel and usage charge to transport gas through Zone 4 without using the Station 85 Pool.

31. On the other hand, when gas is moved in both Zone 4 and the Mobile Bay Lateral, it is appropriate to assess the fuel and usage charges for both the Mobile Bay Lateral and for Zone 4. These are the charges that would apply to a purchase of gas at the Destin interconnect that was then moved South on the Mobile Bay Lateral. Therefore, imposing the Zone 4 fuel and usage charge and the Mobile Bay Lateral fuel and usage charge to a pooled transaction is appropriate. Since charging both these rates is appropriate, we find no need to grant Transco a waiver of its obligation to assess Zone 4 fuel and usage charges.

32. Transco's pleading, however, has shown that because Station 85 has become a market center and moves gas in both directions on the Mobile Bay Lateral, the existence of only a single Zone 4 Pool at Station 85 does not result in just and reasonable rates. Transco itself states that it considers the Station 85 Pool to exist in two zones at the same time (Zone 4 and Zone 4A). As such, a rate structure that treats the Station 85 Pool solely as a facility in Zone 4 will not produce just and reasonable rates. For example, Transco's Example 5 involves gas on the Mobile Bay Lateral that is being sold to a shipper moving gas South on the Mobile Bay Lateral. Transco posits that:

Shipper I uses the Mobile Bay Lateral in Zone 4A to deliver volumes to the Station 85 Pool and Shipper J uses the Mobile Bay Lateral in Zone 4A to transport receipts out of the Station 85 Pool.

Transco requests that the Commission clarify that under the accepted Option 1 tariff sheets, Shipper I will pay Zone 4A to Zone 4A usage and fuel charges and that Shipper J

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sells the gas at the boundary, only one Zone 4 fuel and usage charge should be collected for the pooled transaction.

will pay the Zone 4A to 4A usage and fuel charges and neither shipper will have to pay Zone 4 usage and fuel charges.

33. While the Commission agrees that in this example neither shipper should incur Zone 4 usage and fuel charges because no transportation has occurred in Zone 4, the Commission finds that charging the Zone 4A usage and fuel charges twice is unjust and unreasonable. If Shipper J purchased gas at the Zone 4A receipt point of Shipper I and moved that gas South on the Mobile Bay Lateral without using the Station 85 pooling point, only one Zone 4A fuel and usage charge would be assessed the transaction. Charging the Zone 4A fuel and usage charges twice (once to Shipper I and once to Shipper J) discourages the use of pooling and violates the same principle as did the double charges assessed for Zone 4 transactions from the Destin lateral.<sup>29</sup> The Commission has repeatedly found in the instant proceeding that Transco may charge for transportation to a pool or from a pool but not both. For instance, in its May 29, 2009 Order the Commission reaffirmed its previous findings that imposing double usage and fuel charges for Zone 4 pooling was unreasonable and denied rehearing of previous orders in this proceeding.<sup>30</sup> As the Commission stated there, permitting the pipeline to charge twice for pooling would defeat the Commission's purpose in requiring pipelines to provide pooling to shippers in a manner that would not place them at a rate disadvantage.

34. For these reasons, the Commission concludes that a single pool at Station 85 cannot exist in two zones simultaneously. Therefore, we have determined that to establish just and reasonable rates on Transco's system Transco must establish at least two pools (a Zone 4 Pool and a Zone 4A Pool) in the Station 85 vicinity. Transco will charge only for withdrawal transportation from these pools and Transco must permit the transfer of volumes between such pools subject to the appropriate charges for such transfers.

35. This requirement is very similar to Transco's initial proposal to establish a second Zone 4A Pool at the same mile post location as the existing Station 85 Mainline Pool.<sup>31</sup> The Commission rejected this proposal because it prohibited the transfer of volumes

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<sup>29</sup> Indeed, if the Station 85 Pool is part of Zone 4, the pooling transaction also would incur the Zone 4 fuel and usage charge when the gas is withdrawn from the Station 85 Pool, amounting to triple fuel and usage charges for pooling.

<sup>30</sup> May 29, 2009 Order, 127 FERC ¶ 61,206 at P 23.

<sup>31</sup> May 29, 2009 Order, 127 FERC ¶ 61, 206 at P 65.

between pools and would have limited the value of pooling.<sup>32</sup> However, we find that the two pool proposal is just and reasonable as long as pool to pool transfers are permitted. Pool to pool transfers will provide shippers with the flexibility to pool their gas for shipment either on the mainline, on the Mobile Bay Lateral, or to third-party pipeline interconnects while ensuring that the correct fuel and usage charges are paid for the transactions.

36. The Station 85 Zone 4 Pool, already established by Transco, would continue to pool gas in Zone 4 that enters into Zone 4 on Transco's mainline. Volumes of gas placed in this pool would be subject to Zone 4 usage and fuel charges upon withdrawal from the pool for transportation on the Zone 4 mainline (or upon transfer to the Zone 4A Pool as discussed below). Contributions to this pool can be made from the third-party pipeline interconnects at Station 85 (for volumes that will be withdrawn on the Zone 4 mainline). Volumes also can be contributed from Zone 4A shippers if they pay the appropriate Zone 4A fuel and usage charge to transport gas to the Zone 4 Pool.<sup>33</sup>

37. The second pool to be established is the Zone 4A Pool. This pool will contain volumes of gas that reach Station 85 via the Mobile Bay Lateral or from sources for southern transport on the Mobile Bay lateral. Withdrawals from this pool will be subject to Zone 4A fuel and usage rates. Third party interconnects at Station 85 can deliver gas directly into the Zone 4A Pool without using the Zone 4 Pool (for volumes that will be withdrawn for southern transportation in Zone 4A). Zone 4A producers and shippers can use the Zone 4A Pool to pool gas which will be transported South on the Mobile Bay Lateral (subject to only a single fuel and usage charge).

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<sup>32</sup> Specifically, the Commission held:

Transco's proposal to create separate Station 85 and Station 85 Mainline Pools and prohibit transfers between the two pools has the effect of preventing shippers from pooling gas transported to Station 85 over the Zone 4 mainline with gas transported to Station 85 over the Mobile Bay lateral. That is contrary to the Commission's pooling policy discussed earlier in this order. 127 FERC ¶ 61, 206 at P 71.

<sup>33</sup> Alternatively, as discussed below under pool to pool transfers, the Zone 4A shipper could pool its gas in the Zone 4A Pool, and e transfer gas to the Zone 4 Pool (incurring the Zone 4A fuel and usage charges upon withdrawal from Zone 4A). The subsequent withdrawal from the Zone 4 Pool would incur the Zone 4 Pool and usage charge.

38. Shippers will be permitted to transfer gas between these pools upon payment of the usage rates and fuel for the appropriate rate zone in which the pool is located. For instance, the transfer charge for moving gas from the Zone 4 mainline pool to the Zone 4A Pool would be the Zone 4 mainline usage and fuel rate and the appropriate transfer charge for moving gas from the Zone 4A Pool to the Zone 4 Pool would be the Zone 4A usage and fuel rate charge. For example, gas that is pooled in the Zone 4 Pool will incur the Zone 4 fuel and usage charge when withdrawn either for transport on the Transco mainline in Zone 4 or for transfer to the Zone 4A Pool. The requirement for pool to pool transfer will provide shippers with sufficient flexibility to pool gas depending on the ultimate destination of the transportation.

39. Pool design of this manner will satisfy the requirements of Order No. 587–F which required that “when a pool exists in a rate zone, the charge for shipment in that zone must be incurred either for shipment to the pool or shipment out of the pool.”<sup>34</sup> Moreover, the Commission’s policies concerning the transfer of gas between pools<sup>35</sup> and the Commission’s regulations concerning the recovery of variable cost will also be satisfied. In the Commission’s view, this type of a pooling methodology should, in addition to complying with the Commission’s findings in this proceeding, also satisfy the concern raised by Transco regarding its various shipping scenarios and the concerns of the parties that shippers may be required to pay for facilities that they did not use.

40. Transco also requests that the Commission modify its February 18, 2010 Order to permit it to implement the Option 1 revised tariff sheets on the first day of the first month following at least 30 days after a final Commission order in this proceeding. Transco states that if changes to the accepted Option 1 tariff sheets are required to comply with the February 18, 2010 Order, Transco requests 60 days from the date of a final Commission order in this proceeding to incorporate the modifications into its business system with such modifications to be implemented effective on the first day of the month following the close of the 60-day period.

41. The Commission, therefore, grants rehearing concerning the just and reasonable pooling structure to be implemented on the Transco system, finds that the pooling

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<sup>34</sup> Order No. 587-F, FERC Stats. & Regs., Proposed Regulations 1988-1998 ¶ 32,527, at 33,351 (1997) (Order No. 587-F). Moreover, Order No. 587 also adopted NAESB Standard 1.3.18, which provides, “Deliveries from receipt points should be able to be delivered directly into at least one pool and delivery points should be able to receive quantities from at least one pool, excluding non-contiguous facilities.” 18 CFR § 284.12(a)(1)(i) (2010), Nominations Related Standard 1.3.18.

<sup>35</sup> May 29, 2009 Order, 127 FERC ¶ 61, 206 at P 71.

structure described above will provide just and reasonable rates for pooling on the Transco system, and makes this NGA section 5 action effective on the first of the month 60 days from the date of this order.

42. Transco and others state that they are willing to participate in a technical conference in order to establish a pooling mechanism in Transco's Zone 4. Given our action in establishing a pooling methodology in the instant order the Commission finds that a technical conference is unnecessary at this point. However, the Commission recognizes that other just and reasonable methods for accomplishing pooling at Station 85 may exist, and Transco is free to consult with its shippers and file an alternative just and reasonable proposal pursuant to NGA section 4 if it believes a different approach is warranted.

The Commission orders:

- (1) Rehearing is granted as discussed in the body of the order.
- (2) On the first day of the month 60 days from the date of this order, Transco must implement the pooling structure as discussed in the body of the order.

By the Commission. Commissioner LaFleur voting present.

( S E A L )

Kimberly D. Bose,  
Secretary.