

January 21, 2020

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Room 1A  
Washington, DC 20426

**Re: Tennessee Gas Pipeline Company, L.L.C., Docket No. CP19-7-000  
261 Upgrade Project  
Request for Partial Waiver of Ordering Paragraph (C)**

Dear Ms. Bose:

On December 19, 2019, the Federal Energy Regulatory Commission (“Commission”) issued its Order Issuing Certificate and Approving Abandonment in the captioned proceeding, pursuant to sections 7(b) and 7(c) of the Natural Gas Act<sup>1</sup> (“NGA”).<sup>2</sup> The December 19 Order granted authorization to Tennessee Gas Pipeline Company, L.L.C. (“Tennessee”) to construct and operate a new 2.1-mile-long, 12-inch-diameter pipeline loop located on Tennessee’s 261B-100 lateral (“Looping Project”) and replace two compressor units at Compressor Station 261 (“HR Replacement Project”) in Hampden County, Massachusetts (collectively, “261 Upgrade Project”). Together, the Looping Project and HR Replacement Project will create 72,400 dekatherms (“Dth”) per day of new firm transportation capacity, which is referred to as the “Market Component.” The majority of the Market Component transportation capacity (45,400 Dth per day) was subscribed by Bay State Gas Company d/b/a Columbia Gas of Massachusetts (“CMA”) (40,400 Dth per day) and the Holyoke Gas and Electric Department (“Holyoke”) (5,000 Dth per day).

Tennessee is required by Ordering Paragraph (C) of the December 19 Order to file a written statement affirming that it has executed firm contracts for the capacity levels and terms of service represented in the signed precedent agreements, prior to commencing construction. As explained below, Tennessee respectfully requests partial waiver of Ordering Paragraph (C) of the December 19 Order.

Tennessee explained in its certificate application<sup>3</sup> that it executed a binding precedent agreement with CMA for up to 96,400 Dth per day (40,400 Dth per day on the 261 Upgrade Project) of firm transportation capacity for a 20-year term, reflecting the commercial terms and conditions for CMA’s commitment to participate in the 261 Upgrade Project as an Anchor Shipper. Following the close of the Open Season, Tennessee and Holyoke executed an FT-A Gas Transportation Agreement on August 3, 2017, amended March 11, 2019, for 5,000 Dth per day of firm transportation capacity for a 20-year term (“Holyoke Agreement” or “Agreement”). The

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<sup>1</sup> 15 U.S.C. §§ 717f(b)-(c) (2018).

<sup>2</sup> *Tennessee Gas Pipeline Company, L.L.C.*, 169 FERC ¶ 61,230 (2019) (“December 19 Order”).

<sup>3</sup> Abbreviated Application of Tennessee Gas Pipeline Co., L.L.C. for a Certificate of Public Convenience and Necessity to Construct, Install, Modify, Operate, and Maintain Certain Pipeline and Compression Facilities and to Abandon Other Facilities, at 14, Docket No. CP19-7-000, (Oct. 19, 2018) (“Application”).

Agreement provided Holyoke with the option to terminate the Agreement, without liability, if certain conditions precedent to the agreement were not satisfied.<sup>4</sup> Tennessee identified this provision as non-conforming in its Application, which the Commission found to be a permissible non-conforming provision in the December 19 Order.<sup>5</sup>

On January 2, 2020, Holyoke, pursuant to the terms of the Agreement, notified Tennessee it was exercising its option to terminate the Agreement. After receiving Holyoke's notice of termination, Tennessee evaluated its options to proceed with the 261 Upgrade Project as approved or to revise the scope of the 261 Upgrade Project's facilities. Tennessee's review focused on practical potential reductions to the length of the pipeline loop, which would be the only part of the 261 Upgrade Project affected by Holyoke's termination. Tennessee determined that the options to reduce the length of the pipeline loop (approximately 0.3 miles) would result in the relocation of a block valve and pig receiver site, which, in turn, would cause additional impacts to sensitive environmental resources (wetlands) due to the change in the terminus of the pipeline loop, but would have only *de minimus* cost savings. Based on these considerations, Tennessee determined that it would proceed with the 261 Upgrade Project as approved by the Commission.

The termination of the Holyoke Agreement does not impact the gas transportation agreement that has already been executed by CMA for 40,400 Dth per day for service on the 261 Upgrade Project, which accounts for approximately 89 percent of the incremental capacity on Tennessee's 261B-100 lateral as represented in the signed agreements filed as part of Tennessee's Application. The gas transportation agreement with CMA, dated August 28, 2018, was filed with the Commission as part of a Negotiated Rate and Non-Conforming Agreement Filing on October 19, 2018 in Docket No. RP19-103-000 and was accepted by the Commission in a November 16, 2018 letter order.<sup>6</sup> Neither does the termination of the Agreement impact the 27,000 Dth per day of incremental mainline forward haul capacity on Tennessee's system (from Tennessee's interconnection with Iroquois Gas Transmission System at Wright, New York to the discharge of Compressor Station 261), which is currently unsubscribed, but will help alleviate capacity constrained markets in New England. Holyoke's termination will, however, result in 5,000 Dth per day of unsubscribed capacity on the 261B-100 lateral for which Tennessee will remain at risk.<sup>7</sup>

Tennessee requests a partial waiver of Ordering Paragraph (C) as it pertains to the Holyoke Agreement so that it may be authorized to commence construction of the 261 Upgrade Project, as approved, following submission of the Implementation Plan, requests for Notices to Proceed with construction, and applicable federal clearances. A partial waiver of Ordering Paragraph (C) is appropriate because a majority of the 261 Upgrade Project's total capacity remains under contract,

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<sup>4</sup> *Id.*, Ex. I, at p. 52. ("If [CMA] has not obtained by December 31, 2019 a license from the Massachusetts Energy Facilities Siting Board for the construction of a new distribution pipeline from the [CMA] distribution system to [Holyoke's] distribution system, then [Holyoke] shall have the right, to be exercised by written notice no later than January 14, 2020, to terminate this Agreement without liability to [Tennessee]." Holyoke Agreement, art. 17.3, Shipper Conditions Precedent, Agreement dated August 3, 2017, amended March 11, 2019.).

<sup>5</sup> 169 FERC ¶ 61,230, at PP 44-46.

<sup>6</sup> 165 FERC ¶ 61,134 (2018).

<sup>7</sup> The 5,000 Dth per day of related mainline capacity reserved by Tennessee from Dracut, Massachusetts to Compressor Station 261 to meet the transportation needs of Holyoke will be unreserved and will be made available to its shippers pursuant to Tennessee's FERC Gas Tariff.

and because Holyoke's termination does not diminish the Commission finding of need for the 261 Upgrade Project.<sup>8</sup> Although it is the Commission's general policy to require the applicant to execute contracts for the total level of service reflected in the precedent agreements before beginning construction, the Commission has granted partial waivers of this requirement in similar circumstances.<sup>9</sup> In *Dominion Transmission, Inc.*, the Commission found that the absence of executed agreements for the total capacity was "not a situation in which a significant level of shippers appears to have withdrawn support for a project calling into question the scope or even the very existence of the project."<sup>10</sup> That is the case here, as well. The termination of the Holyoke Agreement does not result in a significant decrease of subscribed capacity. Tennessee's remaining contract with CMA, which has been executed, accounts for approximately 89 percent of the incremental capacity on Tennessee's 261B-100 lateral as represented in the agreements filed with the Application.

The Commission should grant Tennessee's request for partial waiver to avoid significant delays in construction of the Project. As the Commission has explained, "if there is any significant delay in finalizing even a small portion of the remaining contracts, strict application of our executed-contracts requirement could delay construction and jeopardize the proposed in-service date of a project for which significant demand has been adequately demonstrated."<sup>11</sup> Prompt Commission action here is required to allow Tennessee to start construction activities to meet CMA's required in-service date of November 1, 2020.

For the foregoing reasons, Tennessee respectfully requests that the Commission grant its request for a partial waiver of the December 19 Order's Ordering Paragraph (C) as it pertains to the Holyoke Agreement. Any questions concerning this filing should be addressed to the undersigned at (713) 420-5535.

Respectfully submitted,

TENNESSEE GAS PIPELINE COMPANY, L.L.C.

By:       /s/      Ben J. Carranza        
Ben J. Carranza, P.E.  
Director of Regulatory

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<sup>8</sup> December 19 Order, at P 29.

<sup>9</sup> See *Elba Express Company, L.L.C.*, 155 FERC ¶ 61,293, at P 8 (2016) (The Commission granted partial waiver where Elba Express executed contracts with only five of the six shippers representing approximately 58% of the project's capacity.); *Dominion Transmission, Inc.*, 136 FERC ¶ 61,031, at P. 8 (2011) (The Commission granted partial waiver where Dominion executed contracts representing approximately 75% of the subscribed capacity.); *SG Resources Mississippi, L.L.C.*, 108 FERC ¶ 61,051, at P 15 (2004) (The Commission granted partial waiver where "Anchor Tenant" became insolvent and was unable to execute agreement for any quantity of service.); *Portland Natural Gas Transmission System*, 83 FERC ¶ 61,080, at p. 61,388 (1998) (The Commission granted partial waiver where six of the seven shippers executed firm transportation contracts.).

<sup>10</sup> *Dominion Transmission, Inc.*, 136 FERC ¶ 61,031, at P. 8 (2011).

<sup>11</sup> *Id.*



Tennessee Gas Pipeline  
Company, L.L.C.  
a Kinder Morgan company

**CERTIFICATE OF SERVICE**

I hereby certify that I have served the foregoing document by electronic mail upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Houston, Texas this 21st day of January, 2020.

/s/Shannon M. Miller

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