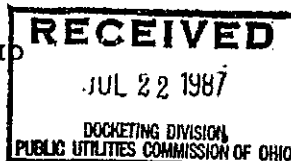


THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR D. J. Jank DATE PROCESSED 7-23-87

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO



In the Matter of the Complaint of )  
The Suburban Fuel Gas, Inc., )  
Complainant, )  
v. )  
Columbia Gas of Ohio, Inc., )  
Respondent, )  
Relative to various alleged )  
violations of the Ohio Revised Code. )

Case No. 86-1747-GA-CSS

REPLY BRIEF  
OF THE  
OFFICE OF THE CONSUMERS' COUNSEL

WILLIAM A. SPRATLEY  
CONSUMERS' COUNSEL

Evelyn R. Robinson  
Trial Attorney  
Margaret Ann Samuels  
Associate Consumers' Counsel

Office of the Consumers' Counsel  
137 East State Street  
Columbus, Ohio 43266-0550  
(614) 466-8574

Date: July 22, 1987

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR D. J. Jank DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR 304 DATE PROCESSED 7-23-87

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of )  
The Suburban Fuel Gas, Inc., )  
Complainant, )

v. )

Columbia Gas of Ohio, Inc., )  
Respondent, )  
Relative to various alleged )  
violations of the Ohio Revised Code. )

Case No. 86-1747-GA-CSS

REPLY BRIEF  
OF THE  
OFFICE OF THE CONSUMERS' COUNSEL

I. INTRODUCTION

The Office of the Consumers' Counsel (OCC), a party to the above-captioned case, offers its Reply Brief in this case in response to the post-hearing brief filed by Columbia Gas of Ohio, Inc. (CGOH). Failure to reiterate herein a position set forth in OCC's initial brief should not be construed as abandonment of that position. In responding to CGOH, OCC is concerned with the interests of that company's residential ratepayers as well as Ohio residential gas consumers in general.

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR 304 DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR D. J. Smith DATE PROCESSED 7-23-87

## II. COMPETITIVE ENVIRONMENT

The Respondent presents a somewhat lengthy discussion of its understanding of the existing competitive environment in the gas industry and its response thereto (CGOH Brief at pp. 5-12). It would appear that CGOH uses the competitive environment, i.e., the deregulation of transportation, as the fundamental basis for its implementation of the CTAPA arrangements as well as its provision of services at no charge or at a rate which is less than that specified in its tariffs. OCC submits that CGOH's reliance on Order No. 436 to justify its actions, as admitted in this case, is clearly misplaced.

The underlying purpose of the Natural Gas Act, (NGA) 15 U.S.C. §717 et seq. is to protect customers from excessive rates and charges by natural gas companies. Therefore, any interpretation of Order No. 436, which is decided pursuant to the NGA, must be consistent with the above stated statutory mandate. FERC issued a "Notice of Inquiry (NOI) concerning the Alleged Anti-Competitive Practices Related to Marketing Affiliates of Interstate Pipelines." 51 Fed. Reg. 41,982 (11/20/86). In that NOI, the Commission recognized that no industry-wide standards of conduct are observed with respect to marketing affiliates and that competitive activities could be occurring. The FERC then proposed a scheme of regulation for marketing affiliates so as to combat competition as well as suggested remedies for violations. 52 Fed. Reg. 21,579 (June ,1987).

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR D. J. Smith DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR RDJ/nd DATE PROCESSED 7-23-87

A further indication that CGOH's reliance on Order No. 436 is misplaced is found in Associated Gas Distribution v. FERC, No. 85-1811, slip op. (D.C. Cir. June 23, 1987). In that case, the court stated, with respect to FERC's power to regulate anti-competitive practices:

A duty not to discriminate, imposed by the Commission on the basis of findings that the duty is necessary to assure consumers access to competitively priced gas, is utterly different. The imposition of the duty here facilitates the accomplishment of Congress's purposes....The reasonableness is underscored by FERC's broad duties to assure consumers access to natural gas at prices such as would prevail in the absence of pipeline market power and its conclusion that under the present circumstances fulfillment of that duty requires such conditioning. (citations omitted). Id. at 35, 37.

The Respondent generously states that "CTAPA provides all of the benefits cited by FERC in Order No. 436. It provides cheaper fuel supplies for the price-elastic customers' -- i.e., the CTAPA customers who would otherwise not be served by Columbia." CGOH Brief at 35. Here, CGOH appears to argue that Order No. 436 allows it to selectively and totally unsystematically provide preferential treatment to only a select few. As with applicable Ohio statutes, the Respondent has ignored FERC conditions that, even in the competitive environment, rates must not be discriminatory when applied to customers who are similarly situated. To the contrary, OCC submits that Order No. 436, which permits non-discriminatory

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR RDJ/nd DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR 204 DATE PROCESSED 7-23-87

access to the gas pipeline, is intended to ensure that the  
benefits of competitively priced gas are available to the  
largest number of customers!

### III. CTAPA PROGRAMS

The Respondent asserts that the rates charged pursuant to  
CTAPA arrangements are not unlawfully discriminatory for  
several reasons. First, CGOH claims that CTAPA customers are  
served pursuant to special contracts instead of its tariffs  
and, therefore, the statutes prohibiting discrimination are not  
applicable. CGOH Brief at 16. This argument is erroneously  
premised on Ohio Revised Code §4905.31 which states in  
pertinent part:

(D) A classification of service based  
upon the quantity used, the time when  
used, the purpose for which used, the  
duration of use, and any other reasonable  
consideration...

The Respondent asserts that the CTAPA arrangements, which are  
special rates applied to small volume customers who would  
otherwise be served under general service tariffs, constitute a  
reasonable arrangement as contemplated by Ohio Revised Code  
§4905.31(D). CGOH Brief at 16. OCC is compelled to disagree  
with the Respondent's conclusion that these CTAPA arrangement  
are reasonable. The record in this case clearly shows that the  
selection of customers to whom CGOH would apply its preferred  
CTAPA rate is blatantly discriminatory. The evidence shows

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR 204 DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROMPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR RDJ/ DATE PROCESSED 7-23-87

that these arrangements are not generally offered or applied to all general service customers to whom alternate sources of energy are available. In fact, the evidence indicates that residential customers, for example, have not been offered these rates.

The next argument advanced by CGOH is that even if the statutes prohibiting discriminatory rates are applicable in the instant case, CTAPA arrangement would not constitute unlawful discrimination. CGOH Brief at 19-20. This argument is equally without merit. It must be noted that CGOH correctly recognizes the applicable standard of law: Ohio utility laws require similar treatment when the customers are similarly situated. CGOH Brief at 21. However, CGOH attempts to show that the CTAPA customers are not similarly situated to its general service customers given their unique competitive situation.

OCC disagrees. The only difference between the Respondents' CTAPA customers and its general service customers is that CTAPA customers are granted a more favorable rate. Moreover, there are some differences in the rates under which the CTAPA customers are served. (See OCC Post Hearing Brief at 4). To permit CGOH to choose which customer it deems to be not "similarly situated" due to competitive situation is tantamount to permitting selective deregulation of the gas industry on Columbia's terms -- what CGOH wants, CGOH gets.

Columbia argues that the customers to which special incentives and special rates such as the CTAPA program were and are being offered are not similarly situated with other members

THIS IS TO CERTIFY THAT THE MICROMPHOTOGRAPH APPEARING ON THIS FILM STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.

ON THIS FILM  
CASE FILE DOCU-  
PHOTOGRAPHING.  
7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR DDJ/af DATE PROCESSED 7-23-87

of the same class of Columbia's customers because they are either incremental customers or are subject to competition from another gas company. A similar argument was rejected by the Federal Energy Regulatory Commission in Consolidated Gas Transmission Corp., et al., 36 FERC ¶61,273; rehearing 39 FERC ¶61,112 (1987).<sup>1</sup> There Consolidated sought to offer a service to new customers that was not available in the same form to existing customers. In connection with the same arrangement, Columbia Gas Transmission Corp. sought approval for a special discounted transportation rate. The FERC rejected that aspect of both applications as unduly discriminatory against existing customers who would not be eligible to apply for the same service and same discounted transportation rate. 36 FERC at 61,668; 39 FERC at 61,419. Further, the potential for cost-shifting to captive consumers existed with both proposals. 39 FERC at 61,421; 36 FERC at 61,670. The FERC's conclusions are pertinent to the facts in the instant case:

The petitioners argue that the transportation service would help diversify BG&E's & WGL's supply sources and enhance competition for their markets. We must also consider, however, the anti-competitive effects of allowing Con Gas to provide BG&E and WGL a type of service not available to similarly situated customers. Furthermore, since the possible benefits of the proposed service to Con Gas' non-eligible customers

1. Copies of these two decisions are attached for the hearing examiner's convenience.

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR DDJ/af DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR B. J. J. J. DATE PROCESSED 7-23-87

are highly speculative, those potential  
system-wide benefits do not justify the  
restriction of the proposed transportation  
and stand-by sales service to BG&E and WGL.

Id., 39 FERC at 61,421 (footnote omitted). In the footnote to  
this paragraph, the FERC finds limiting the availability of the  
proposed service to only the two new customers "akin to the  
undue discrimination found by the court in the Maryland  
People's Counsel cases." Id.

The FERC also pointed out its policy under Order No. 436  
of requiring a pipeline to be at risk for any underrecovery of  
costs due to discounting of transportation rates. In its Order  
on Clarification issued June 3, 1987 the FERC again noted its  
concern that "pipelines not unduly discriminate in offering  
discount rates." 39 FERC ¶61,259 (1987). (See attached copy.  
It should be noted that Columbia Gas Transmission Corp. has  
petitioned the D. C. Circuit for review of these three orders.)

#### IV. CONCLUSION

For the reasons stated herein as well as in its Post  
Hearing Brief, OCC respectfully recommends that the Commission  
declare the CTAPA arrangements to be unlawful. To the extent  
that the Commission should decline to prohibit these  
arrangements, the Commission must ensure that no costs of this  
program are to borne by general service ratepayers.

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR B. J. J. J. DATE PROCESSED 7-23-87



THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR DD/ah DATE PROCESSED 7-23-87

Similarly, OCC recommends that the Commission ensure that  
the excise tax obligations for which the CTAPA customers are  
not billed are not borne by the remaining ratepayers.

Respectfully submitted,

WILLIAM A. SPRATLEY  
CONSUMERS' COUNSEL

E Evelyn R. Robinson  
Evelyn R. Robinson  
Trial Attorney  
Margaret Ann Samuels  
Associate Consumers' Counsel


Office of the Consumers' Counsel  
137 East State Street  
Columbus, Ohio 43266-0550  
(614) 466-8574

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR DD/ah DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR D. J. Smith DATE PROCESSED 7-23-87

CERTIFICATE OF SERVICE

I hereby certify that copies of this Reply Brief of the  
Office of the Consumers' Counsel have been served by first  
class mail, postage prepaid, or hand delivered to the following  
parties of record this 22nd day of July, 1987.

  
Margaret Ann Samuels  
Associate Consumers' Counsel

PARTIES OF RECORD

Kenneth W. Christman, Esq.  
Columbia Gas of Ohio, Inc.  
P. O. box 117  
Columbus, Ohio 43216-0117

David L. Pemberton, Esq.  
Muldoon, Pemberton & Ferris  
2733 West Dublin-Granville Rd.  
Worthington, Ohio 43085-2710

Robert S. Tongren, Esq.  
Assistant Attorney General  
Chief, Public Utilities Section  
180 East Broad Street  
Columbus, Ohio 43266-0573

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR D. J. Smith DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT  
DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR DDA DATE PROCESSED 7-23-87

61,660

Cited as "36 FERC ¶ . . . ."

300 9-25-86

[¶ 61,273]

Consolidated Gas Transmission Corporation, Docket Nos. CP85-756-000  
and -001;

Consolidated System LNG Company and Consolidated Gas Transmission  
Corporation, Docket Nos. CP86-208-000 and -001;

Texas Eastern Transmission Corporation, Docket No. CP85-806-000;  
Columbia Gas Transmission Corporation, Docket No. CP86-454-000

Order Issuing Certificates and Authorizing Abandonment

(Issued September 12, 1986)

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G.  
Stalon, Charles A. Trabandt and C. M. Naeve.

On August 2, 1985, Consolidated Gas  
Transmission Corporation (Con Gas) filed an  
application in Docket No. CP85-756-000,  
pursuant to section 7(c) of the Natural Gas  
Act (NGA), for certificates of public  
convenience and necessity to sell and/or  
transport for Washington Gas Light Company  
(WGL) and Baltimore Gas & Electric  
Company (BG&E) up to 60,000 Dth/d of  
natural gas purchased by WGL and BG&E

from Con Gas and other suppliers. On August  
21, 1985, Texas Eastern Transmission  
Corporation (TETCO) filed an application in  
Docket No. CP86-806-000, pursuant to NGA  
section 7(c), for a certificate to construct  
facilities and transport to Con Gas the gas to  
be transported, in turn, by Con Gas for WGL  
and BG&E. On November 18, 1985,  
Consolidated System LNG Company (Con  
LNG) and Con Gas filed a joint application in

¶ 61,272

Federal Energy Guidelines  
000-54

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT  
DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR DDA DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR R. J. Ford DATE PROCESSED 7-23-87

300 9-25-86

Commission Opinions, Orders and Notices

61,661

Docket No. CP86-208-000, pursuant to NGA sections 7(b) and 7(c) for authorization for Con LNG to abandon by sale to Con Gas, and for Con Gas to acquire, natural gas facilities that would be used by Con Gas to receive gas from TETCO and transport it to Columbia Gas Transmission Corporation (Columbia) for the accounts of BG&E and WGL. On April 17, 1986, Columbia filed an NGA section 7(c) application in Docket No. CP86-454-000 for a certificate to receive the gas from Con Gas and redeliver it to BG&E and WGL.

We are granting, subject to the rate and other conditions set forth herein, the applications by Con Gas, Con LNG, and TETCO. We are denying Columbia's application, without prejudice to Columbia's providing service under the authority currently available to it through Order No. 436 [FERC Statutes and Regulations, Regulations Preambles 1982-85 ¶ 30,665].

I. The Proposals

Docket Nos. CP85-756-000 and -001 (Con Gas)

On August 2, 1985, Con Gas filed an application pursuant to NGA section 7(c) for authorization to sell for resale and/or transport on a firm basis natural gas to BG&E and WGL up to a Maximum Daily Quantity (MDQ) of 60,000 Dth/d each, subject to a fifty percent minimum annual commodity bill.<sup>1</sup> Con Gas would provide firm transportation service, on any day when BG&E and WGL purchase less than the MDQ, up to the MDQ level with corresponding minimum bill credits. This service is proposed to commence on April 1, 1987, and continue for a term of twenty years and year-to-year thereafter. BG&E and WGL each could elect to increase their respective firm service up to 100,000 Dth/d upon written notice to Con Gas no later than December 31, 1990.

In order to receive gas into its system for transportation for the account of BG&E and WGL, Con Gas requests blanket authorization to use existing interconnections between its system and the facilities of other companies, and to construct and operate new receipt points when necessary. Con Gas proposes to deliver all gas sold to and/or transported for BG&E and WGL through Line No. PL-1, which Con Gas proposes to purchase from Con LNG. Line No. PL-1 is a pipeline between Leesburg in Loudoun County, Virginia, and Perulack in Juniata County, Pennsylvania. Con Gas originally proposed to construct, at an estimated cost of \$810,000, and operate the necessary tap, valves, measuring and regulating facilities to interconnect Line No. PL-1 with BG&E and WGL near Dickerson in

Montgomery County, Maryland. As discussed below, Con Gas has applied in Docket Nos. CP86-208-000 and -001 for authorization to acquire and operate Line No. PL-1. Since this facility is not directly connected to Con Gas' transmission system, TETCO has applied in Docket No. CP85-806-000 for authorization to render firm transportation service for Con Gas using TETCO's existing interconnection with Line No. PL-1 at Perulack, Pennsylvania.

On April 17, 1986, Con Gas filed in Docket No. CP85-756-001 to amend its application in Docket No. CP85-756-000 to seek authorization to deliver the gas to Columbia for BG&E and WGL at an existing interconnection at the terminus of Line No. PL-1 at Loudoun measuring station, in Loudoun County, Virginia. Columbia, as outlined in Docket No. CP86-454-000, would transport and redeliver the gas from the Loudoun measuring station to its existing interconnections with BG&E and WGL. Under this revised proposal, Con Gas would not have to construct a tap and other facilities at Dickerson, Maryland, nor would BG&E and WGL need to construct pipeline facilities between Line No. PL-1 and their existing distribution systems. In addition, Con Gas has agreed to waive the minimum annual commodity bill provisions as originally proposed in Docket No. CP85-756-000, until such time, if ever, that Columbia imposes a minimum annual commodity bill for comparable service to BG&E and WGL.

Docket No. CP85-806-000 (TETCO)

On August 21, 1985, TETCO filed an application pursuant to NGA section 7(c) for authorization to transport to Con Gas the gas that Con Gas proposes to sell to and/or transport for BG&E and WGL. TETCO proposes to transport for Con Gas on a firm basis up to an MDQ of 200,000 Dth of natural gas per day and additional quantities on an interruptible basis as mutually agreed upon pursuant to TETCO's Precedent Agreement with Con Gas dated August 9, 1985.

TETCO would receive the gas from Con Gas at their existing point of interconnection at the Oakford Storage Field in Westmoreland County, Pennsylvania. TETCO would transport and redeliver equivalent quantities, less applicable shrinkage,<sup>2</sup> to Con Gas at the existing interconnection between TETCO and Con LNG's Line No. PL-1 located at Perulack, Pennsylvania. The proposed term of service is twenty years and year-to-year thereafter until terminated by TETCO or Con Gas.

To render the service, TETCO proposes to construct and operate approximately 21.63 miles of 36-inch loop, at five locations on

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR R. J. Ford DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROFOTOGRAFI APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR DDJ/SL DATE PROCESSED 7-23-87

61,662

Cited as "36 FERC ¶ . . ."

300 9-25-86

TETCO's existing Penn-Jersey system located in the State of Pennsylvania. The estimated total capital cost of the proposed facilities, including regulatory fee, is \$26,807,000. TETCO would commence construction upon receipt of authorization and anticipates being able to begin transportation service on April 1, 1987.

*Docket Nos. CP86-208-000 and 001 (Con LNG and Con Gas)*

On November 18, 1985, Con LNG and Con Gas filed a joint application pursuant to NGA sections 7(b) and (c) seeking authorization for Con LNG to abandon, by sale to Con Gas, Line No. PL-1 and related facilities, including all records, titles and interest in properties and rights-of-way, and for Con Gas to acquire and operate such facilities as part of its interstate pipeline system. Pursuant to an Agreement of Purchase and Sale dated October 8, 1985, the transfer would be accomplished by execution and delivery of the necessary instruments of transfer at a mutually agreeable date.

On April 18, 1986, Con Gas and Con LNG amended their application to include among the facilities to be sold Con LNG's undivided one-half interest in the Loudoun measuring station in Loudoun County, Virginia.<sup>4</sup> Con Gas would utilize the Loudoun measuring station to deliver gas to Columbia for redelivery to BG&E and WGL.

Con Gas would pay Con LNG \$37,315,905, the estimated total net book value of all of the facilities to be transferred, based on Con LNG's original costs less accumulated depreciation and related accumulated income taxes.

*Docket No. CP86-454-000 (Columbia)*

On April 17, 1986, Columbia filed an application pursuant to section 7(c) of the NGA requesting authorization to transport up to 60,000 Dth/d each to BG&E and WGL on a firm basis and, subject to the availability of capacity, interruptible transportation service in excess of those volumes. The proposed service would commence on April 1, 1987, and continue for a term of twenty years. If either or both BG&E and WGL elect to increase their firm service from Con Gas to up to 100,000 Dth/d, Columbia would provide the firm transportation service, subject to Commission authorization. Columbia would receive the gas from Con Gas at existing interconnection at the Loudoun measuring station and redeliver equivalent quantities to BG&E and WGL at existing points of delivery. No additional jurisdictional facilities would be constructed by Con Gas or Columbia in order to provide service.<sup>5</sup>

¶ 61,273

## II. Interventions

*Docket Nos. CP85-756-000 and -001*

After due notice of Con Gas' application in Docket No. CP85-756-000 by publication in the *Federal Register* on August 27, 1985 (50 Fed. Reg. 34,738), timely, unopposed motions to intervene were filed by TETCO, National Fuel Gas Supply Corporation (National Fuel), Dayton Power and Light Company (DPL), New York State Electric and Gas Corporation (NYSE&G), Niagara Mohawk Power Corporation (Niagara Mohawk), Columbia Gas Distribution Companies (CDC), the Peoples Natural Gas Company (Peoples Natural), the Public Service Commission of the District of Columbia, Virginia Natural Gas, a division of Virginia Electric and Power Company, the East Ohio Gas Company (East Ohio), Rochester Gas and Electric Corporation (Rochester), WGL, the River Gas Company (River Gas), BG&E, UGI Corporation, Texas Gas Transmission Corporation (Texas Gas), Transcontinental Gas Pipe Line Corporation (Transco), Algonquin Gas Transmission Company (Algonquin), the Brooklyn Union Gas Company (BUG), Long Island Lighting Company (Long Island), Public Service Electric & Gas Co. (PSE&G), and Columbia.<sup>6</sup>

Untimely motions to intervene were filed by the Maryland People's Counsel (MPC), the Office of the Consumers' Counsel, State of Ohio, and the Pennsylvania Public Utilities Commission (PaPUC). Granting of these late motions will not delay or disrupt the proceeding, or prejudice any party. Accordingly, they will be granted.

Of the twenty-five motions to intervene, two parties, BG&E and WGL, expressly supported the application. MPC stated some reservations concerning the proposal but did not protest the application or request a hearing. Protests and requests for an evidentiary hearing were filed by Columbia and PSE&G. On April 24, 1986, Columbia withdrew its protest and request for hearing. After discussions with Con Gas, PSE&G and Con Gas reached an agreement evidenced by a letter filed in this Docket on May 13, 1986. On May 13, 1986, PSE&G withdrew its protest and request for a hearing. PSE&G had requested the hearing to determine if Con Gas' intention to roll-in the cost of the TETCO firm transportation service was just and reasonable. The May 13, 1986 letter states that Con Gas has agreed that costs associated with the proposed incremental services and facilities (Line No. PL-1, Loudoun measuring station, and related facilities) will not be shifted to Con Gas' other customers.

Federal Energy Guidelines  
032-50

THIS IS TO CERTIFY THAT THE MICROFOTOGRAFI APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR DDJ/SL DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR DDA DATE PROCESSED 7-23-87

300 9-25-86

Commission Opinions, Orders and Notices

61,663

None of the other persons moving to intervene stated a position. No other motions to intervene, protests to the granting of the application, or requests for an evidentiary hearing have been filed.

Notice of Con Gas' filing in Docket No. CP85-756-001 to amend its application was published in the *Federal Register* on May 12, 1986 (51 Fed. Reg. 17,368). Timely, unopposed motions to intervene were filed by Niagara Mohawk, Transco, BUG, DP&L, Rochester, Orange and Rockland Utilities, Inc. (O&R), Washington Gas Light Company, Frederick Gas Company, Inc., and Shenandoah Gas Company (a joint application, referred to herein as WGL), Consolidated Edison Company of New York, Inc. (Con Ed), and Elizabethtown Gas Company. WGL filed in support of Con Gas' amended application. BUG expressed concern over Con Gas' elimination from its original application of minimum annual commodity bill provisions. BUG, which is presently subject to a minimum commodity bill under Con Gas' Rate Schedule CD, a cert that any minimum bill waiver should be extended to all similarly situated customers. BUG stated that the amended application does not reveal how Con Gas proposes to treat the existing minimum bill obligations of its other customers. DP&L stated that Columbia's proposed transportation rate in Docket No. CP86-454-000 is substantially below Columbia's current rates for comparable service. DP&L is concerned as to what effect the proposed rate and service to WGL and BG&E will have on Columbia's other customers. Neither BUG nor DP&L, however, protested or requested a hearing on the application. None of the other parties stated a position.

**Docket No. CP85-806-000 (TETCO)**

After due notice of TETCO's application in Docket No. CP85-806-000 by publication in the *Federal Register* on September 11, 1985 (50 Fed. Reg. 37,045), timely motions to intervene were filed by Elizabethtown, PSE&G, WGL, Algonquin, Texas Gas, CDC, Peoples Natural, Con Gas, National Fuel, UGI, Niagara Mohawk, New Jersey Natural Gas Company (New Jersey Natural), Long Island, Natural, BUG, Transco, Con Ed, Philadelphia Electric Company (PECO), BG&E, and Columbia.

Untimely motions to intervene were filed by the Public Service Commission of the State of New York and the Pennsylvania Public Utilities Commission. Granting of these late motions will not delay or disrupt the proceeding, or prejudice any party. Accordingly, they will be granted.

FERC Reports  
926-60

BG&E filed in support of TETCO's application. PECO expressed concern over the manner in which costs associated with the facilities TETCO proposes to construct would be allocated among TETCO's customers. Transco expressed concern over TETCO's proposal to construct facilities to transport 200,000 Dth/d. since WGL and BG&E have contracted for only 120,000 Dth/d. Con Ed stated that the proposal appears to be unjust and unreasonable, because during capacity curtailments TETCO's proposed interruptible service to Con Gas would have priority over certain transportation services performed by TETCO for Con Ed and other customers. CDC requested that TETCO's application be consolidated with the proceeding on Con Gas' application in Docket No. CP85-756-000. None of the other persons filing motions to intervene, except Columbia, protested or requested a hearing on TETCO's application. Columbia withdrew its protest and request for hearing on April 24, 1986. No other parties stated a position on TETCO's application.

On October 15, 1985, TETCO filed an untimely answer in opposition to Natural's timely motion to intervene. TETCO states that Natural's intervention should be denied because Natural has no direct or present interest in the proceeding. Natural, on October 31, 1985, supplemented its motion to intervene stating that it:

wishes to amplify its interest in this proceeding and note that, in addition to Natural's ongoing transportation and exchanges with TETCO, Natural is a sponsor of the MIDCONTINENTAL Transportation System (MTS), a competitive applicant for the transportation of incremental Canadian exports to the markets of TETCO and other eastern U.S. pipelines. It is indicated that the status of these markets and the pipeline systems now serving them may have a direct impact on the MTS project as well as that of other competing proposals.

Since TETCO failed to file its opposing motion within 15 days of the date that Natural filed its timely motion to intervene, as required by Rule 214(c)(1) (18 C.F.R. §385.214(c)(1)) of the Commission's Rules of Practice and Procedure, and since Natural has demonstrated that it has an interest in this proceeding, Natural's motion to intervene is granted.

**Docket Nos. CP86-208-000 and -001 (Con LNG and Con Gas)**

After due notice of Con LNG's and Con Gas' application in Docket No. CP86-208-000 by publication in the *Federal Register* on

61,273

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR DDA DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR DD/Ad DATE PROCESSED 7-23-87

61,664

Cited as "36 FERC ¶ . . ."

300 9-25-86

December 12, 1985 (50 Fed. Reg. 50,830), timely motions to intervene were filed by Peoples Natural, Elizabethtown, TETCO, NYE&G, East Ohio Gas Company, River Gas Company, National Fuel Gas Distribution Corporation, WGL, Algonquin, CDC, National Fuel, the Process Gas Consumers Group, UGI, Con Ed, Rochester, BG&E, PSE&G, the Public Service Commission of Maryland, MPC, the Public Service Commission of the State of New York, and Columbia.

Three of these parties, WGL, UGI, and BG&E, filed in support of the application. Con Ed expressed concern as to whether Con Gas' customers would be asked to bear any portion of the proposed acquired plant costs. However, Con Ed did not protest or request a hearing on the application. Columbia protested the application and requested that it be consolidated with Docket No. CP85-756-000 and set for hearing. However, on April 24, 1986, following the agreement reached by WGL, BG&E, Con Gas, and Columbia in Docket No. CP85-756-000, Columbia withdrew its protest and request for hearing. No other party stated a position in its motion to intervene.

Notice of Con LNG's and Con Gas' joint filing in Docket No. CP86-208-001 to amend their application in Docket No. CP86-208-000 was published in the *Federal Register* on May 12, 1986 (51 Fed. Reg. 17,388). Timely, unopposed motions to intervene were filed by Elizabethtown, WGL, and DP&L. WGL filed in support of the application. Elizabethtown and DP&L stated no position. No further motions to intervene, notices of interventions, or protests to the granting of the joint application by Con Gas and Con LNG have been filed.

#### Docket No. CP86-454-000 (Columbia)

After due notice of Columbia's application in Docket No. CP86-454-000 by publication in the *Federal Register* on May 12, 1985 (51 Fed. Reg. 17,388), timely motions to intervene were filed by DP&L, Niagara Mohawk, Transco, BUG, O&R, WGL, Con Ed, and Elizabethtown. WGL filed in support of the application. DP&L raised its same concern regarding Columbia's transportation rate in its intervention in Docket No. CP85-756-001. Transco contended that the instant proposal provides no basis for the Commission to determine whether the proposed transportation charges are cost justified or otherwise compensatory to Columbia, or whether such rates may result in subsidization of such service by other of Columbia's customers. Transco contended that the Commission cannot authorize a departure from cost-based ratemaking without at the same time

permitting other pipelines to charge negotiated rates for providing service to their customers. In addition, Transco questioned Columbia's ability and willingness to provide the service without constructing additional facilities, since Columbia represents in its statement of operating conditions filed May 1, 1986 that 100 percent of its capacity currently is committed under firm contract obligations. Transco also noted that Columbia's opposition to Transco's request in Docket No. CP85-264-000 for approval to abandon certain sales service to Columbia is based on Columbia's position that continuation of the service is necessary for Columbia to be able to render peak day service in its eastern markets.

Neither Transco nor DP&L formally protested or requested a hearing on Columbia's application. However, on May 19, 1986, Transco filed a request for a technical conference to be held in this proceeding to consider Transco's allegations regarding Columbia's available capacity and proposal to charge a negotiated rate to BG&E and WGL. TETCO, Con Gas, and Columbia each filed answers opposing Transco's motion for a technical conference.

We are denying Transco's request for a second technical conference at this late date. Transco was present at the technical conference held on October 29, 1985, and was fully aware at that time of Columbia's desires to be a part of the project and of Columbia's opposition to Transco's proposed abandonment in the unrelated proceeding in Docket No. CP85-264-000. At the October 29, 1985 conference, Columbia made available a flow diagram showing its capability to transport the proposed volumes with no additional facilities. The flow diagram presented at the technical conference reflected a configuration only slightly different from that finally decided upon. Further, Transco's objection to Columbia's proposal to charge a negotiated rate is rendered moot by the rate conditions, discussed below, imposed by this order. Since the October 29, 1985 technical conference, no issues have been raised that would require another technical conference.

#### III. Background

Line No. PL-1 and its related facilities are wholly-owned by Con LNG. These facilities were constructed during 1977 and 1978 pursuant to Opinion Nos. 622 and 622-A (47 FPC 1624 and 48 FPC 723, as amended by order issued March 30, 1973, 49 FPC 809), which authorized the Cove Point LNG project. The entire LNG project was placed in service on July 1, 1978. See 4 FERC ¶ 61,302 (1978). Since the cessation of Algerian LNG imports,

¶ 61,273

Federal Energy Guidelines  
013-60

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR DD/Ad DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING. CAMERA OPERATOR D. J. Ford DATE PROCESSED 7-23-87

61,666

Cited as "36 FERC ¶ . . . ."

300 9-25-86

also would have to install two valves and minor yard piping on its own facilities at the same location at a cost of approximately \$160,000. Con Gas and Columbia may install these auxiliary and replacement facilities pursuant to sections 2.55(a) and (b) of the Commission's Regulations without prior authorization.

Con Gas would finance the proposed acquisition of Line No. PL-1 and related facilities with funds to be obtained from its parent, Consolidated Natural Gas Company, or from funds on hand.

TETCO, in Docket No. CP85-806-000, proposes to construct and operate in southern Pennsylvania 21.63 miles of 36-inch pipeline loop to transport 200,000 Dth/d of natural gas to Con Gas. Estimated costs are \$26,807,000. The facilities proposed by TETCO are strategically located and sized so that the proposed additional volumes can be transported without using more operational fuel, and so that excess compression at the station would be sufficient to allow for unscheduled maintenance, emergencies, and the transportation of additional volumes that may be available from time to time.

Presently, Con Gas has firm contracts with BG&E and WGL to sell and/or transport up to a total of 120,000 Dth/d. However, BG&E and WGL have options to increase Con Gas' firm service to each to 100,000 Dth/d. TETCO indicates in its data response, filed December 31, 1985, that if the Commission authorizes TETCO to transport only 120,000 Dth/d, then TETCO will construct and operate, at an estimated cost of \$15,365,000, only 12.88 miles of 36-inch pipeline loop on its existing Penn-Jersey system in Pennsylvania.

TETCO would initially finance the cost of construction through revolving credit arrangements, short-term loans, and funds on hand. Permanent financing would be undertaken as part of TETCO's overall long-term financing program at a later date.

#### Rates and Revenues

##### Docket No. CP85-756-000 (Con Gas)

Con Gas proposes to sell gas to BG&E and WGL at the rate set forth in its existing RQ Rate Schedule. For quantities sold to BG&E and WGL, Con Gas proposes to charge its currently effective Demand Charge (\$5.04 per month per Dth of Billing Demand), plus the RQ Winter Requirement Quantity Charge (\$0.014 per Dth, applicable only during the months November through March), plus the Commodity Charge (\$2.8319 per Dth).

For quantities transported but not sold by Con Gas to BG&E and WGL, Con Gas proposes to charge the non-gas component of the RQ Commodity Charge (currently \$0.1792

per Dth), plus a reimbursement for fuel and the GRI surcharge.

For firm sales of natural gas, Con Gas originally proposed a minimum annual quantity of 50 percent of the maximum annual quantity. However, as part of its agreement with Columbia, Con Gas has agreed to waive the minimum annual commodity bill until such time as Columbia imposes a minimum annual commodity bill.

##### Docket No. CP85-806-000 (TETCO)

Pursuant to TETCO's Precedent Agreement with Con Gas dated August 9, 1985, TETCO proposes to charge Con Gas a monthly demand charge and an excess charge for deliveries in excess of the firm quantity, based on the estimated incremental cost of TETCO's proposed construction. If authorized to construct facilities to transport up to 200,000 Dth/d, TETCO estimates a monthly demand charge of \$2,9942 per Dth and an excess charge of \$0.0984 per Dth. If TETCO is authorized to construct and operate only those facilities needed to transport 120,000 Dth/d, TETCO estimates a monthly demand charge of \$2,8560 per Dth and, for deliveries in excess of the firm quantity, an excess charge of \$0.0984 per Dth. In the event that the actual cost of the facilities varies from the estimated cost of construction, TETCO would file, within 90 days after service commences, revised rates to reflect actual costs. TETCO would determine any necessary adjustments, including interest, and resubmit billings to make appropriate refunds or recoveries to rectify overcollections and undercollections that occurred prior to the effectiveness of a revised rate.

##### Docket Nos. CP86-208-000 and -001 (Con Gas and Con LNG)

Following the proposed transfer of the facilities from Consolidated LNG to Con Gas, Con LNG's minimum bill would be reduced to remove costs associated with the transferred facilities. This reduction would occur automatically upon transfer of ownership to Con Gas. However, adjustments to Con Gas' jurisdictional rates to reflect the transferred costs of the facilities would not be made until Con Gas makes a general rate filing under section 4 of the NGA.

##### Docket No. CP86-454-000 (Columbia)

Pursuant to their February 27, 1986 agreement, Columbia proposes to charge WGL and BG&E a negotiated rate of 8.5 cents per Dth for all quantities transported during the first ten years. For the eleventh year and each subsequent year, rates would be negotiated, subject to Commission approval.

Federal Energy Guidelines:  
605-35

¶ 61,273

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING. CAMERA OPERATOR D. J. Ford DATE PROCESSED 7-23-87



THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR D. J. Ford DATE PROCESSED 7-23-87

300 9-25-86

Commission Opinions, Orders and Notices

61,665

the Line No. PL-1 has been idle except for some transportation of gas by Con LNG for Columbia which ended in June of 1983.

On November 9, 1982, Consolidated filed in Docket No. CP83-75-000, an application to abandon its one-half interest in the Cove Point LNG facility and pipeline facilities between Cove Point and Loudoun, Virginia, as well as the abandonment of Line No. PL-1. This application was amended on November 1, 1985 to delete Line No. PL-1 from the abandonment request, and was further amended on April 10, 1986 to delete the Loudoun measuring station from the abandonment request.

Gas Supply

Con Gas expects to have substantial excess gas supplies for the foreseeable future. Exhibits H and I to Con Gas' application in Docket No. CP85-756-000, as well as gas supply and requirements data filed on February 25, 1986, in Docket No. CP86-344-000, show a substantial surplus, even after supplies have been adjusted to reflect the proposed sales to BG&E and WGL.

Markets

BG&E served 514,774 customers in contract year 1985, with total requirements of 103,423.6 MDth. Of the total requirements, 53 percent are residential and small commercial requirements and 43 percent are large commercial and small and large industrial requirements. The remaining four percent is for company use and unaccounted for and storage input. BG&E currently purchases gas from Columbia; however, since 1984 it has supplemented this supply with gas purchased directly from producers and transported on an interruptible basis. On May 2, 1986, BG&E filed supply and market data in which BG&E projects that it will add 10,925 new customers during contract years 1986 through 1992. Approximately 99.7 percent of these new customers are expected to be residential and small commercial customers. BG&E also projects that its peak day volumes will increase from 680 MDth in 1986 to 704 MDth in 1992. Nevertheless, BG&E projects that its total requirements will decrease slightly on an annual basis from 105,287.1 MDth in 1986 to 104,049.8 MDth in 1992. Residential requirements are projected to increase by 90.6 MDth between 1986 and 1987 and decrease an average of 222.6 MDth each year thereafter through 1992. Only small commercial and small industrial requirements are expected to substantially increase through 1992.

On an annual and peak day basis, BG&E anticipates cutting back on supplies from

Columbia once the Con Gas Services are authorized. BG&E states that approximately \$1.4 million annually could be saved in demand charges by transferring 60,000 Dth/d from Columbia to Con Gas, with an additional \$6.4 million in savings annually based on current commodity rates. BG&E believes it could realize a net savings of \$4.5 million per year even after paying \$1.86 million to Columbia for transportation.

WGL served 582,355 customers in 1985 with total requirements of 114,521 MDth. Of these requirements, approximately 68 percent were for residential users, and 14 percent were for small commercial customers, 14 percent were for large commercial and small and large industrial users, with the remaining four percent for company use or unaccounted for. On May 2, 1986, WGL filed supply and market data which indicates that WGL will add 43,671 new customers between 1986 and 1990, of which approximately 43,560 are expected to be residential and small commercial customers.

WGL projects its total requirements on peak days to remain constant through 1990. Although the Con Gas supply on a peak day is not shown, WGL indicates that this supply would be used to replace projected peaking and storage gas.

On an annual basis, WGL projects its total requirements to increase from 123,037 MDth in 1986 to 132,481 MDth in 1990. Residential requirements are projected to increase between 1986 and 1987 by 1,068 MDth, and between 1989 and 1990 by 128 MDth, but to decrease between 1987 and 1989. WGL anticipates all other customer classes will increase in each year between 1986 and 1990, with the exception of large industrial requirements, which are expected to decrease in 1990.

Like BG&E, WGL anticipates cutting back on supplies from Columbia beginning in 1987, when service from Con Gas commences. WGL states it could reduce its purchased gas costs by approximately \$9.4 million per year with the advent of the Con Gas services.

Facilities

No major additional facilities would be needed by Con Gas to perform the services described in Docket Nos. CP85-756-000, CP85-756-001, CP86-208-000 and CP86-208-001, or by Columbia for the services described in Docket No. CP86-454-000, in order to provide the proposed service to BG&E and WGL. Con Gas would have to replace certain components of the metering facilities and to install minor yard piping at the Loudoun measuring station, at a cost of approximately \$500,000. Columbia

FE/C Reports  
020-55

61,273

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR D. J. Ford DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR JDJ DATE PROCESSED 7-23-87

300 9-25-86

Commission Opinions, Orders and Notices

61,667

**Environmental**

The Environmental Evaluation Branch (EEB) of the Commission's Office of Pipeline and Producer Regulation (OPPR) issued an environmental assessment (EA) for TETCO's Penn-Jersey Pipeline Project on April 14, 1986. This EA relates to the construction activities that are proposed by TETCO in Docket No. CP85-806-000 in this proceeding and in other proceedings in Docket Nos. CP85-803-000, CP85-804-000, CP85-805-000, CP86-46-000, CP86-82-000, and CP84-429-015. TETCO seeks authorization to construct during 1986 all of the facilities proposed in these seven independent applications. The environmental analysis of these applications was combined, since most of the proposed facilities would be located in the same general geographic area including portions of Pennsylvania and New Jersey. The Commission's staff has determined in the EA that the project proposed by TETCO in this proceeding in Docket No. CP85-806-000 does not constitute a major Federal action significantly affecting the quality of the human environment and is otherwise environmentally acceptable. Furthermore, Con Gas' and Columbia's proposals in Docket Nos. CP85-756-001 and CP86-454-000, to make related modifications of the existing measuring station in Loudoun County, Virginia, would not constitute a major Federal action significantly affecting the quality of the human environment, since the facilities are relatively minor. Con LNG's and Con Gas' related proposal in Docket No. CP86-208-001 would not require any new facilities. Therefore, no environmental impact would be involved with the approval of that proposal.

Copies of the EA were made available to the owners of homes that appear to be located within 50 feet of TETCO's proposed pipeline looping. Copies of the assessment were also made available to interested Federal, state, county and local agencies, as well as others. Of the timely comments received in response to the EA, only the comments of TETCO and the Advisory Council on Historic Preservation (Advisory Council) pertain to TETCO's proposal in Docket No. CP85-806-000 in this proceeding. The Advisory Council states that the measures proposed in the EA and by TETCO in its application appear adequate for the identification and consideration of historic properties that may be affected by the project. TETCO states that it concurs with the environmental conclusions and recommendations set forth in the EA regarding its proposal in Docket No. CP85-806-000.

The Commonwealth of Pennsylvania, Department of Environmental Services (PDER) filed on April 17, 1986, a request for

additional time beyond the April 30, 1986 deadline to file comments on the EA. In a notice dated May 5, 1986, the Secretary of the Commission extended the time for filing of comments by PDER to May 14, 1986. On June 30, 1986, comments were received from the PDER. The PDER states that the EA adequately addresses its concerns and provides additional information concerning the need for care when crossing streams.

TETCO's construction of pipeline looping will occur largely in cropland, pasture or woodland areas. As soon as construction is completed, cropland and pasture areas will revert to their original use. However, one segment of the pipeline looping will occur within 50 feet of one known residence. To reduce the impact of construction on this and any other residence, we will require TETCO to work within its proposed permanent right-of-way near any residence where the proposed permanent right-of-way would be within 50 feet of the residence.

In light of the above, and the specific mitigation measures proposed and agreed to by TETCO, we conclude that approval of TETCO's application will not constitute a major Federal action significantly affecting the quality of the human environment.

**IV. Discussion**

*Docket Nos. CP85-756-000 and -001 (Con Gas)*

Con Gas' proposed sales to BG&E and WGL represent the introduction of a new pipeline supplier to these two distribution companies. The purchase of gas from Con Gas would provide both with added flexibility in managing their gas supply on a long-term basis, displace company production or peak shaving supplies, and reduce their purchased cost of gas. BG&E and WGL indicate that they could save approximately \$4.5 million per year and \$9.4 million per year, respectively, if Con Gas' proposed service is authorized, by reducing their purchases from Columbia. Further, Con Gas has adequate gas supplies to make the proposed sales without detriment to its existing customers. Con Gas' proposal is unopposed. We find that issuance of certificate authority for it is required by the public convenience and necessity.

For its proposed sales service, Con Gas proposes to charge a sales rate equal to its sales rate set forth in Rate Schedule RQ, which is Con Gas' generally applicable sales rate schedule. Rate Schedule RQ is currently comprised of a Demand component, a Commodity component, and, during the months November through March, a Winter Requirements Quantity component. The

61,273

FERC Reports  
011-40

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR JDJ DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING. CAMERA OPERATOR DDJ/AL DATE PROCESSED 7-23-87

61,668

Cited as "36 FERC ¶ . . . ."

390 9-25-86

Demand and Winter Requirement Quantity components are based on the full daily level of 60,000 Dth. For volumes purchased, BG&E and WGL would pay the full commodity component Rate Schedule RQ.

For volumes transported, Con Gas proposes that BG&E and WGL pay the non-gas portion of the Commodity component of the RQ Rate Schedule, plus reimbursement for fuel used and the GRI surcharge.

Rate Schedule RQ applies only to sales, but Con Gas also proposes to provide transportation service separate from sales service and charge a transportation rate derived from the RQ sales rate. Therefore, Con Gas proposes to file special rate schedules that would apply only to the proposed services for BG&E and WGL. However, since we are rejecting, for the reasons discussed below, Con Gas' proposed transportation service, it is not necessary to allow Con Gas to file special rate schedules. Con Gas will be required to provide the proposed sales service, which we are approving, under Rate Schedule RQ. The approved sales rate therefore will be the same as the proposed sales rate, since it was based on Rate Schedule RQ, and there is no need for the filing of a special rate schedule.

We are rejecting Con Gas' transportation proposal based on our determination that it is preferential and unduly discriminatory. BG&E and WGL essentially would be receiving two services, sales and the option to have their own gas transported at levels up to 100 percent of their respective MDQ on a firm basis, while customers purchasing gas under Rate Schedule RQ would pay the same rates but receive only sales service. Further, the proposed transportation rate for service to BG&E and WGL is inappropriate. By utilizing the non-gas component of the sales rate, the proposed rate would include production related costs that would be appropriate in Con Gas' sales rates to BG&E and WGL but not in Con Gas' transportation rates, since such costs are not incurred in providing transportation service. In addition, the proposed transportation service might result in cost shifting. Con Gas would be required to secure gas supplies sufficient to meet BG&E's and WGL's full contract demands. To the extent these customers opt to substitute transportation service for purchased volumes, gas acquisition costs incurred by Con Gas to provide sales service to BG&E and WGL ultimately might be collected from other sales customers under Rate Schedule RQ. For example, take-or-pay costs would be incurred on the basis of sales obligations but collected on the basis of purchased volumes.

¶ 61,273

Moreover, it would be inappropriate to permit such preference to BG&E and WGL at this time, in view of the Stipulation and Agreement that was filed by Con Gas on February 10, 1986, in its rate proceeding in Docket No. RP85-169-000, *et al.* The Stipulation provides, *inter alia*, all of Con Gas' customers the opportunity to convert their sales service to firm transportation service and for Con Gas to provide stand-by sales service in a non-discriminatory manner. Furthermore, if the Stipulation and Agreement is approved, the terms thereof would prevent the cost-shifting that might result if the present proposal were approved to allow BG&E and WGL to convert sales service to transportation service.

As a related matter, BUG expressed concern regarding the waiver of the minimum bill provision for WGL and BG&E, while BUG is still subject to a minimum bill under Con Gas' CD Rate Schedule. The Commission is currently considering in its proceeding in Docket No. RP85-169-000, *et al.*, to which BUG is a party, whether Con Gas should be required to reduce or eliminate its minimum commodity bill requirements.

Docket No. CP85-806-000 (TETCO)

TETCO's construction costs for its proposed facilities in Docket No. CP85-806-000 will be reimbursed by Con Gas through payment of a monthly demand charge and excess charge based upon TETCO's estimated incremental cost of facilities. Con Gas will be entitled to the incremental capacity on TETCO's system on a year-round basis.

TETCO's proposal to recover its mainline transmission facilities costs incrementally by use of a demand charge to only BG&E and WGL departs from the Commission's usual practice of requiring that such costs be rolled-in by pipelines and recovered from all customers. In this instance, however, the recovery of incremental costs from only those customers receiving the benefits of additional firm service capacity is in the public interest, because there is neither an adverse impact on TETCO, nor on the rates and charges paid by its other customers. In previous orders, the Commission has accepted TETCO's proposed methodology for the determination of an incremental demand charge as an initial rate with the condition that such acceptance should not be construed as binding any parties or the Commission in any future rate proceeding. The certificate issued to TETCO in this proceeding shall be subject to the same condition. In addition, TETCO will be required to adjust the cost parameters, such as rate of return, which

Federal Energy Guidelines  
C29-39

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING. CAMERA OPERATOR DDJ/AL DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING. CAMERA OPERATOR B. J. [Signature] DATE PROCESSED 7-23-87

300 9-25-86

Commission Opinions, Orders and Notices

61,669

underlie TETCO's proposed initial rates to reflect the outcome of TETCO's pending rate proceeding in Docket No. RP85-177-000.

TETCO proposes, if actual construction costs vary from the estimated costs upon which its proposed rate is based, to file revised rates and thereafter refund overcollections or bill its customers to recover undercollections. We reject this proposal as it applies to recovery of underestimated costs, the imposition of a surcharge to recover the difference between costs recovered through an initial rate and the actual costs of construction constitutes impermissible ratemaking. Therefore, if it is necessary that TETCO's initial rates be revised because TETCO's actual construction costs exceed the estimated costs (those upon which its initial rate is designed), TETCO will not be allowed to recover the difference except on a prospective basis.

PECO, in its motion to intervene, raised a concern that TETCO's other customers would bear some of the costs associated with the construction of facilities to transport gas for Con Gas. We find that this concern is unjustified, as all of TETCO's incremental construction costs will be recovered from Con Gas. Thus, no other customers of TETCO would be required to bear any of the costs associated with the project.

TETCO proposes to provide Con Gas with firm transportation of 200,000 Dth/d, and interruptible transportation of additional volumes, notwithstanding that there is no assurance that BG&E and WGL will elect to increase their current contractual commitments to take only 60,000 Dth/d each. TETCO argues that constructing the facilities for transporting the full 200,000 Dth/d on a piecemeal basis eliminates the economies of scale of the proposed single construction program.

Since neither BG&E nor WGL has given assurance at this time that it will exercise the option to increase its firm service from Con Gas to 100,000 Dth/d, the public interest would not be served if the Commission were to authorize TETCO to construct facilities to transport 200,000 Dth/d when a substantial portion of such facilities apparently will not be used or useful in the foreseeable future. Accordingly, TETCO's construction authorization shall be restricted to the facilities necessary to provide Con Gas with firm transportation of 120,000 Dth/d until such time as BG&E or WGL commit to more than 60,000 Dth/d each. Once the necessary commitments have been made, Con Gas and TETCO may apply to the Commission for authorization to construct additional looping facilities to increase capacity.

FERC Reports  
012-61

Since Con Gas will be authorized to deliver no more than 60,000 Dth/d to BG&E and WGL each, there is no need at this time to authorize TETCO to make any interruptible deliveries over and above its 120,000 Dth/d firm commitment. In view of our decision to authorize TETCO only to provide firm transportation service of 120,000 Dth/d and construct only the facilities necessary to provide this presently contracted for firm service, Con Ed's concern regarding the priority of the proposed interruptible transportation service to be offered by TETCO is moot.

Docket Nos. CP86-208-000 and -001

Con LNG's proposed abandonment of facilities, including Line No. PL-1, the one-half interest in the Loudoun measuring station, and related facilities, and Con Gas' proposed acquisition and operation of these facilities are necessary to facilitate Con Gas' service to BG&E and WGL. These facilities are advantageously located with respect to delivery of gas to BG&E and WGL for redelivery into the Baltimore and Washington area. Moreover, by using existing facilities, Con Gas is spared the substantial cost of constructing duplicative facilities. Line No. PL-1 has been essentially idle since late 1980. We find the authorizations requested are required by the public convenience and necessary because they will return to productive use facilities that represent a significant major investment of capital and resources.

Con Ed's and PSE&G's concerns as to whether Con Gas' customers would be asked to bear any portion of the acquired plant costs have been satisfactorily addressed by Con Gas. Con Gas' response to the Commission's request dated May 2, 1986, indicates that the acquisition of these facilities will not have a substantial rate impact on Con Gas' customers. Con Gas' existing customers are already responsible for the costs associated with the LNG project facilities, except the related return on equity, through the monthly minimum bill that Con Gas pays to Con LNG. Con Gas indicates that the net rate effect to existing customers of Con Gas' acquisition of these facilities and their inclusion in its rate base will not be substantial and that the revenues expected from the proposed services will exceed the costs required to render such services by a substantial margin. Further, in response to Con Ed's and PSE&G's concerns Con Gas has agreed to accept a certificate condition that the costs associated with the proposed acquisition of facilities and additional services will not be shifted to Con Gas' other customers if the level of revenues shown in

¶ 61,273

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING. CAMERA OPERATOR B. J. [Signature] DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR RDJ/af DATE PROCESSED 7-23-87

61,670

Cited as "36 FERC ¶ . . ."

300 9-25-86

Exhibit N is not realized from the associated throughput. <sup>10</sup> As noted above, following this agreement by Con Gas, PSE&G withdrew its request for hearing in Docket No. CP85-756-000.

*Docket No. CP86-454-000 (Columbia)*

Columbia's proposal to transport 60,000 Dth/d on a firm basis for BG&E and WGL each would eliminate the need for BG&E and WGL to spend \$25 million to construct and operate facilities to receive gas directly from Con Gas. Columbia's proposed firm service also would eliminate the need for Con Gas to expend an estimated \$810,000 for facilities at Dickerson, Maryland. The proposed transportation by Columbia is the result of an agreement between WGL, BG&E, Con Gas and Columbia, under which Con Gas has agreed to delete the minimum bill provisions in its original application. This modification of the proposal would enable Columbia to compete on an equal footing with Con Gas for sales and transportation services to these markets. Columbia's negotiated rate of 8.5 cents per Dth is intended to be a special rate for only these proposed transactions. The proposed rate would be filed as a rate schedule in Volume No. 2 of Columbia's tariff.

DP&L, in its motion to intervene, raised concerns as to the effects Columbia's proposed service and transportation rate, which is less than its current transportation rates, might have on the rest of Columbia's system. Transco questioned whether the proposed transportation rate is cost justified or otherwise compensatory to Columbia. Further, Transco submitted that the proposed negotiated rate departs from cost based ratemaking principles that the Commission generally applies in developing pipelines' rates for services to their customers.

We agree with Transco that Columbia's proposal is inconsistent with cost-based ratemaking principles. Moreover, the proposed rate is especially inappropriate in the circumstances of the present proceeding. The reason for this is that Columbia recently accepted a blanket certificate under Order No. 436 and is thus fully authorized to provide the requested transportation service under either the section 7(c) authorization of its blanket certificate or the self-implementing authorization under NGPA section 311. The flexible rate provisions of Order No. 436 specifically allow pipelines to discount the rates they charge down to the average variable costs properly allocated to the particular service. Under this provision, Columbia would be able to charge the 8.5 cents per Dth that it has proposed—although it would not be able to file a revised rate designed to recover revenue

lost as a result of discounting. Thus, under the provision of Order No. 436, there is no danger of cross-subsidization. Such is not the case, however, with specific applications under NGA section 7(c). Selective discounting for individual customers has not been permitted in those cases where the pipeline does not absorb the risk of undercollection.

For these reasons, we find that it would not serve the public interest to approve Columbia's application in this docket. However, this finding is without prejudice to Columbia's providing service under the authority currently available to it through Order No. 436.

The record in this proceeding includes all evidence, including the applications and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

*The Commission orders:*

(A) A certificate of public convenience and necessity is issued authorizing Con Gas to sell to BG&E on a firm basis up to 60,000 Dth of natural gas per day.

(B) A certificate of public convenience and necessity is issued authorizing Con Gas to sell to WGL on a firm basis up to 60,000 Dth of natural gas per day.

(C) The certificates granted by paragraphs (A) and (B) above are subject to the condition that all sales services authorized therein shall be provided by Con Gas under Rate Schedule RQ and subject to the Commission's determinations in the proceeding in Docket No. RP85-169-000, *et al.*

(D) A certificate of public convenience and necessity is issued authorizing TETCO, effective April 1, 1987, to transport to Con Gas on a firm basis up to 120,000 Dth of natural gas per day.

(E) A certificate of public convenience and necessity is issued authorizing TETCO to construct and operate pipeline loops and additional facilities, as described in TETCO's filing of December 31, 1985, in Docket No. CP85-806-000, to transport 120,000 Dth of natural gas per day to Con Gas.

(F) Con LNG is authorized to abandon by sale to Con Gas Line No. PL-1 and related facilities and Con LNG's one-half interest in Loudoun measuring station, as more fully described in Con LNG's and Con Gas' application in Docket Nos. CP86-208-000 and -001.

(G) A certificate of public convenience and necessity is issued authorizing Con Gas to acquire and operate Line No. PL-1 and related facilities and Con LNG's one-half interest in

¶ 61,273

Federal Energy Guidelines  
01C-80

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR RDJ/af DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING. CAMERA OPERATOR D. J. [illegible] DATE PROCESSED 7-23-87

300 9-25-86

Commission Opinions, Orders and Notices

61,671

Loudoun measuring station, as more fully described in Con LNG's and Con Gas' application in Docket Nos. CP86-208-000 and -001.

(H) Columbia's application for authorization to transport on a firm basis up to 60,000 Dth/d each to BG&E and WGL, under the conditions and terms set forth in its application, is denied.

(I) The certificates issued to Con Gas and TETCO are conditioned to require that each pipeline file appropriate tariff sheets and service agreements prior to commencing service.

(J) The certificate issued herein to Con Gas in Docket Nos. CP85-756-000 and -001 is conditioned upon its compliance with paragraphs (a), (c)(3), (e) and (f) of section 157.20 of the Commission's Regulations.

(K) The authorizations issued herein to Con Gas and Con LGN in Docket Nos. CP86-208-000 and -001 for their respective acquisition and abandonment of facilities are conditioned upon compliance by Con Gas and Con LNG with Part 154 and section 157.20(a), (c), (d), (e) and (f) of the Commission's Regulations. Con LNG shall notify the Commission of the effective date of the abandonment within 10 days thereafter.

(L) The certificate issued to Con Gas is subject to the condition that Con Gas may not include in its rates to any customers other than BG&E and WGL any costs associated with facilities acquired from Con LNG pursuant to the certificate issued herein, if the level of revenues proposed in Exhibit N of Docket Nos. CP86-208-000 and -001 is not realized.

(M) The certificate issued to TETCO herein in Docket No. CP85-806-000 is conditioned upon TETCO's compliance with paragraphs (a), (c), (e), (f) and (g) of section 157.20 of the Commission's Regulations.

(N) The facilities authorized herein to be constructed by TETCO shall be completed and in actual operation within one year from the date of issuance of this order.

(O) In the event that the actual cost of constructing the facilities authorized herein exceeds the estimated costs upon which TETCO's initial rates are based, TETCO shall not be permitted to assess a surcharge to recover any undercollections. However, as TETCO has proposed in its application, to the extent the cost-of-service associated with the new facilities is actually less than the costs which underlie the proposed initial rates, TETCO will refund any overcollection, with interest, as well as file reduced rates reflecting the lower actual cost of facilities.

(P) TETCO shall adopt in its construction procedures the mitigation measures described in its application, the conditions set forth in the Environment Assessment, and the conditions agreed to by TETCO in its filings on December 9, 1985 and May 15, 1986.

(Q) The motions of Columbia, MPC, the Office of the Consumers' Counsel of the State of Ohio, and PaPUC to intervene in Docket No. CP85-756-000, and the motions of PaPUC, the Public Service Commission of the State of New York, and Natural to intervene in Docket No. CP85-806-000 are granted.

(R) TETCO shall work within its permanent right-of-way and not use any temporary right-of-way near any residence at any location where the proposed permanent right-of-way would be located within 50 feet of an occupied residence.

—Footnotes—

<sup>1</sup> The pro forma service agreement attached as Exhibits H and I to Con Gas' application also provides for interruptible transportation to BG&E and WGL, in excess of the MDQ levels, to be rendered at the TI rate set forth in Con Gas' FERC Gas Tariff, Original Volume No. 1. Con Gas does not request authorization for this interruptible transportation service.

<sup>2</sup> TETCO's shrinkage is currently stated as zero percent in the agreement and is subject to change.

<sup>3</sup> Line No. PL-1 consists of 109.8 miles of 30-inch transmission pipeline with its southern terminus at Loudoun in Loudoun County, Virginia, and continuing northward through Montgomery, Frederick, and Washington Counties, Maryland, and Franklin and Huntingdon Counties, Pennsylvania, to its northern terminus at Perulack in Juniata County, Pennsylvania.

<sup>4</sup> The other undivided one-half interest in this facility is owned by Columbia LNG Corporation, an affiliate of Columbia, which will receive gas from Con Gas at the facility and transport it to BG&E and WGL.

<sup>5</sup> Con Gas and Columbia have determined that it will be necessary to replace certain components of the metering facilities and to install valves and minor yard piping at the Loudoun measuring station. However, as described in their applications, these replacements could be made pursuant to sections 2.55(a) and (b) of the Commission's Regulations without specific authorization.

<sup>6</sup> Timely, unopposed motions to intervene are granted by operation of Rule 214 (18 C.F.R. § 385.214) of the Commission's Rules of Practice and Procedure.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id.

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING. CAMERA OPERATOR D. J. [illegible] DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR B. J. [Signature] DATE PROCESSED 7-23-87

61,672

Cited as "36 FERC ¶ . . ."

300 9-25-86

<sup>22</sup> Contract years for BG&E and WGL are from November 1 of the preceding year to October 31 of the designated year.

<sup>23</sup> See orders issued in Docket Nos. CP81-4-000 (14 FERC ¶ 61,263), CP81-291-000 (16 FERC ¶ 61,053), CP82-2-000 (19 FERC ¶ 61,128), CP85-803-000 (35 FERC ¶ 61,271), CP85-804-000 (35 FERC ¶ 61,281), CP85-805-000 (35 FERC ¶ 61,291), and CP86-46-000 (35 FERC ¶ 61,293).

<sup>24</sup> A utility may not set rates to recoup past losses, nor may the Commission prescribe rates on that principle. See *City of Piqua v. F.E.R.C.*, 617 F.2d 950 (D.C. Cir. 1979), and *Distrigas of Massachusetts Corporation*, 33 FERC ¶ 61,046.

<sup>25</sup> See Con Gas' filing dated May 13, 1986, in Docket Nos. CP85-756-000 and CP86-208-000.

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR B. J. [Signature] DATE PROCESSED 7-23-87

¶ 61,273

Federal Energy Guidelines  
018-51

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR 304 DATE PROCESSED 7-23-87

61,418

Cited as "39 FERC ¶ . . ."

332 5-28-87

62 Lawrenceburg Gas Transmission  
Corporation  
63 Process Gas Consumers Group, et al.

\*Indicates intervenors protesting the blanket  
certificate application.

[¶ 61,112]

Consolidated Gas Transmission Corporation, Docket Nos. CP85-756-002  
through -006;

Consolidated System LNG Company and Consolidated Gas Transmission  
Corporation, Docket Nos. CP86-208-002 through -006;

Texas Eastern Transmission, Corporation, Docket Nos. CP85-806-001 through  
-005;

Columbia Gas Transmission Corporation, Docket Nos. CP86-454-001 through  
-005

Order Denying, in Part, and Granting, in Part, Requests for Rehearing, and  
Extending Time for Accepting Certificate

(Issued May 4, 1987)

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa,  
Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

Requests for rehearing of the  
Commission's September 12, 1986 order issued  
in Docket No. CP85-756-000, et al., 36 FERC  
¶ 61,273, were filed by Consolidated Gas  
Transmission Corporation (Con Gas),  
Columbia Gas Transmission Corporation  
(Columbia), Baltimore Gas and Electric  
Company (BG&E), Washington Gas Light  
Company (WGL), and the Maryland People's  
Counsel (MPC). We are granting the requests  
in part, and denying them in part. We are  
granting the request by Texas Eastern  
Transmission Corporation (TETCO) for an  
extension of time to accept its certificate  
granted by the order.

#### I. Background

On August 2, 1985, Con Gas filed an  
application in Docket No. CP85-756-000  
pursuant to section 7(c) of the Natural Gas  
Act (NGA) for authorization to sell for resale,  
and/or transport on a firm basis, natural gas to  
BG&E and WGL up to a Maximum Daily  
Quantity (MDQ) of 60,000 Dth each, subject  
to a fifty percent minimum annual commodity  
bill. <sup>1</sup> Con Gas proposed to provide firm  
transportation service, on any day when BG&E  
and WGL purchased less than the MDQ, up to  
the MDQ level with corresponding minimum  
bill credits. The service was proposed to  
commence on April 1, 1987, and continue for a  
term of twenty years and year-to-year  
thereafter. Con Gas proposed to increase firm  
service to BG&E and WGL, at their election,  
to 100,000 Dth per day upon written notice to  
Con Gas no later than December 31, 1990.

Con Gas originally proposed to bypass  
Columbia's facilities by constructing facilities

that would permit direct delivery of all gas to  
non-jurisdictional facilities to be constructed  
by BG&E and WGL. Columbia protested the  
application on the ground that the public  
convenience and necessity required that  
Columbia be permitted to provide that part of  
the proposed service that would require the  
construction of new facilities by Con Gas,  
BG&E, and WGL.

Following execution of a letter agreement  
among Columbia and the original parties to the  
service agreement, Con Gas filed, in Docket  
No. CP85-756-001, an amendment to its  
application to provide for delivery of all gas to  
Columbia for redelivery to BG&E and WGL.  
On April 17, 1986, Columbia filed an  
application in Docket No. CP86-454-000 for a  
certificate to receive gas from Con Gas at their  
existing interconnection, and redeliver to  
BG&E and WGL at their existing  
interconnections, 60,000 Dth of gas per day on  
a firm basis and additional volumes on an  
interruptible basis. Columbia further agreed to  
provide additional firm transportation service  
of up to 100,000 Dth per day, subject to  
Commission authorization, if either or both  
BG&E and WGL elected to increase their firm  
service from Con Gas.

The revised proposal, including Columbia's  
participation, eliminated the need for Con Gas  
to construct a tap and other facilities at  
Dickerson, Maryland and for BG&E and WGL  
to construct pipeline facilities to connect their  
systems with Con Gas. Under the new  
proposal, no additional jurisdictional facilities  
would be constructed by Con Gas or Columbia  
in order to provide the service. <sup>2</sup> In addition,

Federal Energy Guidelines  
202-44

¶ 61,111

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR 304 DATE PROCESSED 7-23-87



THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING. CAMERA OPERATOR 2044 DATE PROCESSED 7-23-87

332 5-28-87

Commission Opinions, Orders and Notices

61,419

Con Gas agreed, as part of the revised proposal, to waive the minimum annual commodity bill provisions as originally proposed in Docket No. CP85-756-000, until such time, if ever, that Columbia imposed a minimum annual commodity bill for comparable service to BG&E and WGL.

In its original and amended applications, Con Gas proposed to provide a portion of the transportation through Line No. PL-1, a transmission pipeline between Loudoun County, Virginia and Juniata County, Pennsylvania. Consolidated System LNG Company (Con LNG), which owns Line No. PL-1, and Con Gas filed a joint application on November 18, 1985 in Docket No. CP86-208-000 for authorization of Con LNG's abandonment of Line No. PL-1 and related facilities by sale to Con Gas. On April 18, 1986, Con Gas and Con LNG amended their application, to include among the facilities to be sold, Con LNG's undivided one-half interest in the Loudoun measuring station in Loudoun County, Virginia. Con Gas would utilize the Loudoun measuring station to deliver gas to Columbia for redelivery to BG&E and WGL. Con Gas proposed to pay Con LNG \$27,315,905, the estimated net book value of all facilities to be transferred.

Since Line No. PL-1 is not directly connected to Con Gas system, TETCO filed in Docket No. CP85-806-000 for a certificate to receive gas from Con Gas at their existing interconnection in Westmoreland County, Pennsylvania and redeliver equivalent volumes on a firm basis to TETCO's existing interconnection with Line No. PL-1 in Juniata County, Pennsylvania. Since Con Gas proposed to increase deliveries to BG&E and WGL to 100,000 Dth per day each, at their election, TETCO proposed to transport up to an MDQ of 200,000 Dth and additional quantities on an interruptible basis. The proposed term was twenty years and year-to-year thereafter until terminated by TETCO or Con Gas. To render the service, TETCO proposed to loop an existing line at an estimated construction cost of \$26,807,000.

II. The Commission's Order

A. Con Gas' Proposed Sales Service

The Commission's order granted Con Gas authority to sell up to 60,000 Dth of natural gas per day to BG&E and WGL on a firm basis.

We denied Con Gas' request for authorization to increase firm sales service for BG&E and WGL to 100,000 Dth/d each, at their election. Such authorization would have necessitated that we also authorize

significantly greater construction costs to loop TETCO's system. We declined to do so, because there was no assurance that both BG&E and WGL would elect to increase service.

Because the proposed type of service would be available only to BG&E and WGL, Con Gas proposed to file special rate schedules. The proposed special sales rate schedule provided for a sales rate equal to the sales rate under Con Gas' existing Rate Schedule RQ, which includes a Demand Charge, an RQ Winter Requirements Quantity Charge, and a Commodity Charge. Since, as discussed below, we denied Con Gas' proposal to provide transportation service, we found that there was no need for Con Gas to file a special sales rate schedule and required that Con Gas provide the sales service under Rate Schedule RQ. We made the sales rate subject to our determinations in Con Gas' settlement proceeding in Docket No. RP85-169-000, et al., regarding the rate terms and conditions for Order No. 436 transportation by Con Gas.

B. Con Gas' Proposed Transportation Service

We denied Con Gas' proposal to provide, at BG&E's and WGL's option, firm transportation service in lieu of sales service. The proposal provided, in effect, for firm transportation service with stand-by sales service under special rate schedules that would be available only to BG&E and WGL. We determined that the proposal unduly discriminated against Con Gas' existing sales customers, since they would not be eligible for the proposed service.

We further determined that the proposed special rate for the transportation service was inappropriate, since it was based on the non-gas component of the sales Commodity Charge under Rate Schedule RQ and therefore included production related costs that are not incurred in providing transportation service. We also concluded that the proposed transportation service might result in cost-shifting, because Con Gas would be required to maintain gas supplies sufficient to meet BG&E' and WGL's full contract sales demands, even if they elected to substitute transportation service for sales service.

Finally, we noted the Commission's pending review of the Stipulation and Agreement filed by Con Gas on February 10, 1986 in the settlement proceeding in Docket No. RP85-169-000, et al., to resolve the terms and conditions on which Con Gas will provide Order No. 436 [FERC Statutes and Regulations, Regulations Preambles 1982-1985 § 30,665] transportation. This settlement agreement provides, *inter alia*, all of Con Gas'

61,112

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING. CAMERA OPERATOR 2044 DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR R. J. A. L. DATE PROCESSED 7-23-87

61,420

Cited as "39 FERC ¶ . . . ."

132 5-28-87

sales customers the opportunity to convert their sales service to firm transportation service and for Con Gas to provide stand-by sales service in a non-discriminatory manner. We concluded that the settlement agreement, if approved, would permit service to BG&E and WGL essentially the same as that proposed in this proceeding, but without creating the potential for cost-shifting. If we approved Con Gas' proposal in this proceeding but did not approve the settlement, or the settlement was approved subject to conditions unacceptable to Con Gas, only BG&E and WGL would be entitled to the type of service contemplated in the settlement agreement for all of Con Gas' sales customers.

#### C. Con Gas' Acquisition of Facilities

The order authorized Con LNG's proposed abandonment of Line No. PL-1 and related facilities and its interest in the Loudoun metering station by sale to Con Gas. The authorization was granted on the condition that Con Gas' acquisition costs not be shifted to customers other than BG&E and WGL if less than the anticipated level of revenues, as reflected in Exhibit N of Con Gas' application, is realized.

#### D. TETCO's Construction and Transportation

The order granted TETCO a certificate for construction limited to those facilities necessary to transport 120,000 Dth per day for Con Gas on a firm basis. As stated above, TETCO's certificate was limited to transporting 120,000 Dth of natural gas per day for Con Gas since there is no assurance that BG&E and WGL both would elect to increase their firm service MDQ with Con Gas from 60,000 Dth to 100,000 Dth. The construction restriction rendered moot TETCO's request to transport volumes in excess of 200,000 Dth per day on an interruptible basis.

#### E. Columbia's Application

We denied Columbia's application for an NGA section 7(c) certificate to redeliver gas from Con Gas to BG&E and WGL. We determined that Columbia's proposed special rate for the service, 8.5 cents per Dth, was lower than Columbia's current transportation rates, was inconsistent with cost-based ratemaking principles, and might result in shifting costs to other customers. We noted, however, that the proposed discount rate was within the range of permissible rates under Columbia's effective rate schedule for transportation under Order No. 436. Further, the terms of Order No. 436 would prevent Columbia from shifting to its other customers costs of service that might not be recovered by

the proposed discount rate for BG&E and WGL. In view of these considerations, we determined that Columbia's proposed service would be in the public convenience and necessity only if provided under its Order No. 436 blanket certificate and therefore denied Columbia's application for a case-specific NGA section 7(c) certificate.

#### III. Requests for Rehearing

##### A. Denial of Con Gas' Transportation Proposal

Con Gas, BG&E, WGL, and MPC request rehearing of our decision to deny authorization for Con Gas' proposed transportation service for BG&E and WGL. The petitioners assert that the Commission erred in concluding that the proposal was unduly discriminatory because the proposed firm transportation with stand-by sales service would be available only to BG&E and WGL. Con Gas argues that the proposal is not unduly discriminatory because its other sales customers that pay the same rate receive service of equal value, even though they would not be eligible for the type of service available to BG&E and WGL under the proposed special rate schedules.

The petitioners cite our approval in November 1984 of special rate schedules providing for members of the CONTEAL customer group, but not other partial requirements customers, to receive partial requirements service at the same rate paid by full requirements customers under Rate Schedule RQ. They assert that this order supports acceptance of the proposed special rate schedules for BG&E and WGL. They argue further that our acceptance of currently effective Rate Schedules CD and RQ, under which partial and full requirements customers pay the same rate, demonstrates that one rate may be appropriate for different services.

The petitioners' arguments miss the point. Our primary objection to the proposed transportation service was not based on the proposed rate. Rather, the objection was that the proposed special rate schedules would be available only to BG&E and WGL and, therefore, only they would have the option of substituting firm transportation service for firm sales service and be entitled to stand-by sales service. Accordingly, we found that the proposed rate schedules were not necessary since we were denying transportation authority and the proposed special sales rate schedule provided for the same rate as Rate Schedule RQ.

Further, the petitioners' position is not supported by our approval in the cited order of partial requirements sales service by Con Gas for the CONTEAL customer group under

¶ 61,112

Federal Energy Guidelines  
000-119

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR R. J. A. L. DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT  
DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR D. J. [illegible] DATE PROCESSED 7-23-87

332 5-28-87

Commission Opinions, Orders and Notices

61,421

special rate schedules applicable only to those customers. In that proceeding, we required Con Gas to file, by a certain date, its currently effective Rate Schedule CD to make the special service terms available to all partial requirements customers.<sup>6</sup>

The petitioners assert that we have taken the view that any differences in the kinds of services offered to different customers is preferential and unduly discriminatory. They also assert that the absence of protest in this proceeding by any of Con Gas' existing customers indicates that the proposal is not discriminatory. Both of these assertions are incorrect, in view of the nature of the proceeding in Docket No. RP85-169-004, et al., to establish the rates, terms, and conditions under which Con Gas will transport under Order No. 436. A continuing central issue in that proceeding is the extent to which existing sales customers will be allowed to convert to transportation service with stand-by sales service.<sup>7</sup> In any event, it is our statutory responsibility under the Natural Gas Act to ensure that Con Gas' practices are not unduly discriminatory, regardless of the absence of any filed objections by Con Gas' customers in this particular proceeding.<sup>8</sup>

In sum, we see no justification for Con Gas to offer firm transportation with stand-by sales service to BG&E and WGL but not to other similarly situated customers.

Further, we find no merit in BG&E's and WGL's argument that they should not be viewed as similarly situated with Con Gas existing sales customers. Because it was on its existing customer's behalf that Con Gas entered into long-term supply contracts, BG&E and WGL argue that they should not be denied receiving transportation and stand-by sales service while existing customers pursue such service in Con Gas' pending Order No. 4 settlement proceeding. We do not agree that the existing customers' reliance heretofore on Con Gas' systems supply justifies approving firm transportation service with stand-by sales service that would be available only to BG&E and WGL.<sup>9</sup> Furthermore, the sales service that Con Gas will provide to BG&E and WGL bears the same characteristic as other sales service provided by Con Gas: the gas sold to BG&E and WGL will come from Con Gas' system supply, BG&E and WGL will receive the gas into their system supplies. Con Gas will transport the gas through its existing transmission system and Line No. PL-1, which Con Gas intends to integrate into its transmission system and which has been utilized heretofore as being gas into Con Gas' general system supply.

We do not agree with the petitioners' assertion that our denial of the transportation proposal penalizes Con Gas for having applied for a blanket certificate. Nor is our action inconsistent with our assurance in Order No. 436 that case-specific transportation certificates will continue to be available through the traditional application process for pipelines that do not choose to operate under Order No. 436. Individual transportation certificates are available, if the applicant proposes to provide the service under an appropriate transportation rate schedule, which Con Gas did not do. Furthermore, regardless of whether a pipeline transports under Order No. 436, the manner in which transportation services are made available may not be unduly discriminatory. Con Gas' proposal fails to meet that criterion.

Further, we are not persuaded by petitioners' argument that the proposed service creates no potential for cost-shifting and actually would benefit Con Gas' other customers by increasing throughput and spreading fixed costs over greater sales and transportation volumes. The petitioners assert that no cost-shifting would occur because Con Gas anticipates having excess supplies for the foreseeable future.

Even if we assume that Con Gas' supply surplus will continue, such an assumption does not demonstrate that no cost-shifting would result from the proposed transportation service. Since the proposal would allow BG&E and WGL to switch to transportation service with stand-by sales service, Con Gas would be required to maintain supply commitments sufficient to meet BG&E's and WGL's full MDQs with no assurance that they would take those volumes. Thus, we would be reducing Con Gas' ability and incentive to renegotiate its contracts to bring its supply situation in line with its reasonably foreseeable requirements. This could result in increased take-or-pay and other gas costs.

The petitioners argue that the transportation service would help diversify BG&E's and WGL's supply sources and enhance competition for their markets. We also must consider, however, the anti-competitive impacts of allowing Con Gas to provide BG&E and WGL a type of service not available to similarly situated customers. Furthermore, since the possible benefits of the proposed service to Con Gas' non-eligible customers are highly speculative, those potential system-wide benefits do not justify the restriction of the proposed transportation and stand-by sales service to BG&E and WGL.<sup>10</sup>

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT  
DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR D. J. [illegible] DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR D. J. Ford DATE PROCESSED 7-23-87

61,422

Cited as "39 FERC ¶ . . . ."

332 5-28-87

Finally, we find that approval of the flexibility provided by the proposed transportation service would be inconsistent with our decision generally to deny flexible receipt point authority when granting case-specific section 7(c) transportation certificates. Con Gas and the other participants have not identified the sources and receipt points of gas that BG&E and WGL might purchase and have transported under the proposed arrangement. Therefore, the proposal is more appropriately implemented under blanket certificate authority.

**B. Con Gas' Proposed Increase in Service**

MPC requests rehearing of our decision to deny Con Gas authority to increase firm sales and/or transportation service to BG&E and WGL, at their election, from 60,000 Dth per day to 100,000 Dth per day. As discussed above, we are affirming our decision to deny transportation authority because that aspect of the proposal is unduly discriminatory. We will not grant authority for Con Gas to increase its firm sales service, since additional service by Con Gas would require great construction by TETCO. Capacity greater than that already authorized may not be needed, since there is no assurance that either BG&E or WGL would make an election to increase sales service. In view of these uncertainties, the economy of scale stressed by MPC well might prove to be false economy. We note that neither TETCO nor any of the other parties requested rehearing on this issue.

**C. Con Gas' Sales Rate**

We conditioned Con Gas' firm sales authority on Con Gas' charging BG&E and WGL the applicable rate under Rate Schedule RQ. We imposed this condition because the proposed special rate for sales service was the same as the RQ rate and the filing of special rate schedules available only to BG&E and WGL was unnecessary since we denied the proposed transportation service.

The petitioners request that, in the event we affirm our decision to deny transportation authority, we modify our order to provide for sales service under Rate Schedule CD. Rate Schedule CD is applicable to customers seeking contract demand service accounting for less than fifty percent of their gas requirements. Rate Schedule RQ is applicable to full requirements customers.

The petitioners are correct that Con Gas' sales service should be provided under Rate Schedule CD, subject to our final determinations in Con Gas' rate proceeding in Docket No. RP85-169-000, *et al.* We will amend the order accordingly.

¶ 61,112

**D. Con Gas' Acquired Facilities Costs**

Our order authorized Con LNG to abandon, by sale to Con Gas, Line No. PL-1 and related facilities and Con LNG's one-half interest in the Loudoun metering station. The transfer of facilities was approved on the condition that Con Gas not include in its rates to any customers except BG&E and WGL any costs associated with the facilities, if Con Gas does not realize the anticipated level of revenues as reflected in Exhibit N to Con Gas' and Con LNG's joint application in Docket No. CP86-208-001.

The petitioners request that we modify the order to allow Con Gas to include costs associated with the acquired facilities in the rates paid by any customers that are served from the facilities or benefit from Con Gas' use of the facilities.

We will grant the request, in part, to allow the facilities' costs to be included in the rates paid by customers that are actually served from the facilities. However, whether the facilities ultimately will provide any significant benefit to Con Gas' customers that are not served directly from the facilities cannot be determined at this point, and it is therefore appropriate to defer that issue until a future rate proceeding.

**E. Columbia's Transportation Authority and Rate**

The petitioners request rehearing of our decision to deny Columbia a case-specific section 7(c) certificate authorizing Columbia to provide its portion of the transportation at a discount rate of 8.5 cents per Dth.

The petitioners argue, contrary to our finding, that the proposed discount rate is cost-based and appropriate, because the proposed service is essentially a short-haul delivery service by Columbia through existing transmission facilities to existing customers. We disagree. Because the proposed discount rate is within the range of permissible rates accepted for Order No. 436 transportation by Columbia, we determined that the rate, though not fully cost-based, was compensatory and appropriate for transportation provided under Order No. 436, which prevents participating pipelines that choose to charge discount rates from later shifting to other customers any unrecovered costs of service. To be fully cost-based, including return on equity and all other costs of service, the rate would have to be equal to the maximum permissible rate for Order No. 436 transportation. Furthermore, while the transportation may be short-haul delivery service, Columbia has not proposed to charge its generally applicable rate for such

Federal Energy Guidelines  
020-59

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR D. J. Ford DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING. CAMERA OPERATOR DDJ/AL DATE PROCESSED 7-23-87

332 5-28-87

Commission Opinions, Orders and Notices

61,423

service but instead has proposed a discount rate.

In view of our determination that the discount rate would be unduly discriminatory and create the potential for cost-shifting if allowed under an individual section 7(c) certificate, we cannot, as suggested by the petitioners, grant Columbia a certificate allowing the proposed discount rate simply because it was arrived at through settlement negotiations among the contracting parties. Nor does the fact that the proposed rate was arrived at through negotiation justify granting the petitioners' alternative request for clarification that we will presume Columbia's proposed discount rate to be appropriate for the duration of the service arrangement, if Columbia transports under its blanket certificate.

The petitioners argue that the requested clarification is necessary and appropriate to shield Columbia against possible complaints that it discriminated against other customers by offering the discount to BG&E and WGL. They also assert that the requested clarification is appropriate to ensure that the rate paid by BG&E and WGL will not increase as the result of future rate proceedings on Columbia's Order No. 436 transportation rates. While the proposed rate is within the range of Columbia's currently effective Order No. 436 transportation rates, we cannot presume that Columbia would be justified in refusing to provide service at the same rate to another shipper or that the rate paid by BG&E and WGL should remain unchanged if Columbia's Order No. 436 transportation rates change.

#### F. Request for Clarification

In the event we affirm our decision to deny Con Gas' proposal to provide transportation and stand-by sales service for BG&E and WGL, Con Gas requests clarification that BG&E and WGL would be eligible for the transportation service and stand-by sales service provided for under the terms of Con Gas' Order No. 436 settlement agreement in Docket No. RP85-169-000, et al.

Con Gas' Order No. 436 settlement agreement, which has been approved subject to conditions, is pending rehearing.<sup>11</sup> Assuming Con Gas ultimately commences transportation under Order No. 436, BG&E and WGL would be eligible for transportation service and standby sales service under the terms of the settlement agreement, if capacity exists at the time they are next in line for transportation service under the first-come, first-served requirement of Order No. 436.

#### IV. Columbia's Application in Docket No. CP87-29-000

Columbia's rehearing request states Columbia's intent to file an application competitive with the proposal in this proceeding if on rehearing we do not grant Columbia a section 7(c) certificate allowing its proposed discount rate or, alternatively, clarify that we will presume the proposed discount rate to be appropriate for the duration of the service arrangement, if Columbia transports under its blanket certificate.

Columbia filed its application on October 16, 1986 in Docket No. CP87-29-000 for a section 7(c) certificate to transport gas for BG&E and WGL. Columbia proposes to receive gas from Con Gas or other unspecified suppliers with which it has existing interconnections and to transport the gas to BG&E and WGL at their existing interconnections. Columbia proposes to file a special rate schedule, applicable only to BG&E and WGL, that provides for a rate equal to Columbia's rate under Rate Schedule FTS for firm transportation service under Order No. 436.

Columbia asserts that it is entitled to an Ashbacker-type comparative hearing<sup>12</sup> on its application in Docket No. CP87-29-000 prior to issuance of an order denying its rehearing request and clarification request, because its new proposal in Docket No. CP87-29-000 would prevent the acquisition and construction of unnecessary facilities by Con Gas, BG&E, and WGL.

The Ashbacker doctrine applies when contemporaneous, mutually exclusive applications exist. However, there are no competing applications before us. While Columbia appears to believe that our denial of its rehearing request would allow Con Gas to provide service directly to BG&E and WGL, the certificates granted by our September 12, 1986 order provide only for the service described in the applications as conditioned by our order, which is delivery to Columbia for redelivery by Columbia under its blanket certificate to BG&E and WGL. Con Gas would be in violation of the terms of its certificate if it proceeded to provide service to BG&E and WGL without Columbia's participation. Thus, the existing applications in this proceeding do not compete with Columbia's application in Docket No. CP87-29-000. Con Gas, of course, may amend its application or file a new application for authorization to transport directly to BG&E and WGL, and for any construction necessary to provide direct

FERC Reports  
056-56

¶ 61,112

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCUMENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING. CAMERA OPERATOR DDJ/AL DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR B. J. Ford DATE PROCESSED 7-23-87

61,424

Cited as "39 FERC ¶ . . . ."

332 5-28-87

service. Depending on the terms and conditions of any such proposed service, our approval would not necessarily preclude Columbia from also providing transportation service for BG&E and WGL. In such instances, we have determined that proposals are not mutually exclusive and that the Ashbacker doctrine therefore does not apply.<sup>18</sup>

In view of the above considerations, it is not necessary that we consider Columbia's application in Docket No. CP87-29-000 on its merits or conduct an Ashbacker-type hearing prior to denying Columbia's requests for rehearing and clarification in this proceeding.

#### V. TETCO'S Request for an Extension of Time

Pursuant to section 157.20(a) of the Commission's Regulations, a certificate must be accepted within thirty days after issuance, unless the grantee of the certificate files a timely request for rehearing. TETCO did not request rehearing of our September 12, 1986 order granting its certificate. However, on October 14, 1986, pursuant to Procedural Rule 2008 (18 C.F.R. § 385.2008), TETCO filed a request for an extension of time, until thirty days after issuance of an order on rehearing, to accept its certificate and pay any required fees. Since the other parties to the supply arrangement requested rehearing, we find that TETCO's delay in accepting its certificate is justified. Therefore, we will grant TETCO's request.

#### The Commission orders

(A) The certificate granted to Con Gas by our September 12, 1986 order in Docket Nos. CP85-756-000 and -001 is amended to require that all sales services authorized therein shall be provided by Con Gas under Rate Schedule CD, subject to our determinations in Docket No. RP85-169-000, *et al.*

(B) The certificate granted to Con Gas by our September 12, 1986 order in Docket Nos. CP86-208-000 and -001 is amended to allow costs associated with Con Gas' acquisition and operation of Line No. PL-1 and related facilities and Con LNG's one-half interest in the Loudoun metering station to be included in Con Gas' rates to BG&E and WGL and other customers served from those facilities.

(C) TETCO is granted an extension of time until thirty days after issuance of this order to accept its certificate granted by our September 12, 1986 order in Docket No. CP85-806-000.

(D) Except as provided above, all terms and conditions of our September 12, 1986 order in Docket No. CP85-756-000, *et al.*, remain in effect.

¶ 61,112

#### Footnotes

<sup>1</sup> The *pro forma* service agreements attached as Exhibits H and I to Con Gas' application also provide for interruptible transportation to BG&E and WGL in excess of the MDQ levels. Con Gas, however, did not specifically request authorization for interruptible transportation service.

<sup>2</sup> Con Gas and Columbia have determined that it will be necessary to replace certain components of the metering facilities and to install valves and minor yard piping at the measuring station where Columbia will receive the gas. However, as described in their applications, these replacements could be made pursuant to sections 2.55(a) and (b) of the Commission's Regulations without specific authorization.

<sup>3</sup> The other one-half interest in this facility is owned by Columbia LNG Corporation, an affiliate of Columbia.

<sup>4</sup> See 27 FERC ¶ 61,426 (1984).

<sup>5</sup> See 33 FERC ¶ 61,475 (1985).

<sup>6</sup> See Consolidated Gas Transmission Corporation, Order Approving Contested Offer of Settlement Subject to Conditions, 38 FERC ¶ 61,150 (1987).

<sup>7</sup> See, e.g., *Scenic Hudson Preservation Conference v. F.P.C.*, 354 F.2d 608, 620 (2nd Cir. 1965), where the court noted:

In this case, as in many others, the Commission claimed to be the representative of the public interest. This role does not permit it to act as an umpire blandly calling balls and strikes for adversaries appearing before it, the right of the public must receive active and affirmative protection at the hands of the Commission.

<sup>8</sup> We note in this regard that Con Gas' Order No. 436 settlement agreement provides for its existing firm sales customers to convert to firm transportation service with stand-by sales service. Con Gas, however, has declined to accept its blanket certificate granted by our February 13, 1987 order, *supra* note 6, and has requested rehearing of our condition that Con Gas allow its sales customers the option of waiving certain rights under the settlement agreement in favor of exercising their contract reduction and transportation conversion rights as outlined in section 284.10 of Order No. 436. See Con Gas' request for rehearing filed on March 13, 1987 in Docket No. RP85-169-009, *et al.*

<sup>9</sup> Limiting the availability of the proposed service to BG&E and WGL is akin to the undue discrimination found by the court in the Maryland People's Counsel cases. *Maryland People's Counsel v. F.E.R.C.*, 761 F.2d 768 (D.C. Cir. 1985); *Maryland People's Counsel v. F.E.R.C.*, 761 F.2d 780 (D.C. Cir. 1985); and *Maryland People's Counsel v. F.E.R.C.*, 768 F.2d 450 (1985). In those cases, the court held that the limitations on access to transportation under blanket certificates and special marketing programs were unduly discriminatory in view of the speculative nature of possible benefits to noneligible shippers that might be realized from increased throughput.

<sup>10</sup> See *Southern Natural Gas Company, et al.*, 36 FERC ¶ 61,275 (1986).

<sup>11</sup> See *supra* notes 6 and 8.

Federal Energy Guidelines  
000-70

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR B. J. Ford DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR DDA DATE PROCESSED 7-23-87

357 7-9-87

Commission Opinions, Orders and Notices

61,865

[¶ 61,259]

Consolidated Gas Transmission Corporation, Docket Nos. CP85-756-002  
through 006;  
Consolidated System LNG Company and Consolidated Gas Transmission  
Corporation, Docket Nos. CP86-208-002 through 006;  
Texas Eastern Transmission Corporation, Docket Nos. CP85-806-001 through  
005;  
Columbia Gas Transmission Corporation, Docket Nos. CP86-454-001 through  
005

Order on Request for Clarification

(Issued June 3, 1987)

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa,  
Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On May 15, 1987, Columbia Gas  
Transmission Corporation (Columbia) filed a  
request for expedited clarification of the  
Commission's order on rehearing issued on  
May 4, 1987 in Docket No. CP85-756-002, et  
al, 39 FERC ¶ 61,112.

The May 4, 1987 order on rehearing  
affirmed the Commission's decision <sup>1</sup> to deny  
Columbia's request for an individual certificate  
under section 7(c) of the Natural Gas Act to  
provide transportation service for Baltimore  
Gas and Electric Company (BG&E) and  
Washington Gas Light Company (WGL) at a  
discount rate of 8.5 cents per Dth. We  
determined that the proposed transportation  
service, if rendered at a discount rate, would be  
required by the public convenience and  
necessity only if provided under Columbia's  
Order No. 436 blanket certificate, the terms of  
which would prevent Columbia from shifting to  
its other customers costs of service that might  
not be recovered by the discount rate.

Columbia requests clarification that in  
Columbia's future rate proceedings we will not  
automatically impute a maximum  
transportation rate for the service to BG&E  
and WGL and require Columbia to absorb any  
costs that are not recovered by the discount  
rate. We deny the requested clarification.  
Section 284.7 of our regulations requires that  
pipelines transporting under Order No. 436  
establish minimum and maximum  
transportation rates and that the maximum  
rate must be based on the fully allocated costs  
of providing service. <sup>2</sup> To prevent cross-  
subsidization of discount rates, the rate  
conditions of Order No. 436 are designed so  
that a pipeline will not recover all of its  
allocated costs if it does not sell at the  
maximum rate its total projected units of  
service. <sup>3</sup> If a pipeline selectively discounts its

rates, section 284.7(d)(5)(iii) prohibits the  
pipeline from filing a revised or new rate to  
recover costs not recovered by the discount  
rates. And, as stated in Order No. 436, "[t]he  
discount, however, does not mean any  
customer pays a higher unit rate to make up  
the difference between the costs actually  
recovered and those that would have been  
recovered if the pipeline could have charged  
the ceiling price. This difference in costs comes  
out of the shareholders' pockets if there is any  
underrecovery." <sup>4</sup>

Columbia also requests clarification that it  
will not be required automatically to offer  
other shippers a discount transportation rate  
similar to that offered to BG&E and WGL. We  
grant Columbia's request. Order No. 436 does  
not require a pipeline that selectively  
discounts its rates for some customers to offer  
the same discount to other shippers. We  
determined that such a requirement was not  
necessary because the rate conditions of Order  
No. 436 put pipelines at risk for any discounts  
below their maximum rates. We concluded that  
this condition would ensure that pipelines will  
always seek to charge the ceiling rate in order  
to maximize profits and will only discount  
when necessary to obtain a contract to provide  
service that otherwise would be lost. Thus, we  
felt confident that two customers similarly  
situated with respect to their competitive  
conditions—if, for example, both can switch to  
No. 6 residual fuel oil or both can switch to a  
competitor pipeline offering a lower rate—can  
be expected to receive similar treatment from  
the pipeline. <sup>5</sup> However to ensure that  
pipelines do not unduly discriminate in  
offering discount rates, we included a  
requirement in section 284.7(d)(5)(iv) that a  
pipeline file its selective discounts and  
provided a complaint mechanism in section

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR DDA DATE PROCESSED 7-23-87

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR W. J. Smith DATE PROCESSED 7-23-87

61,866

Cited as "39 FERC ¶ . . . ."

337 7-9-87

38.206 for any person that believes that a particular discount is unduly discriminatory and therefore violates section 4(b) of the Natural Gas Act.

*Statutes and Regulations, Regulations, Preambles*  
1982-1985 ¶ 30,665 (1985), at p. 31,535 and p. 31,542

<sup>1</sup> *Id.* at p. 31,542

<sup>2</sup> *Id.* at pp. 31,542-43.

<sup>3</sup> *Id.* at p. 31,543

— Footnotes —

<sup>1</sup> See 36 FERC ¶ 61,273 (1986).

<sup>2</sup> See Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 436 [FERC

THIS IS TO CERTIFY THAT THE MICROPHOTOGRAPH APPEARING ON THIS FILM  
STRIP IS AN ACCURATE AND COMPLETE REPRODUCTION OF A CASE FILE DOCU-  
MENT DELIVERED IN THE REGULAR COURSE OF BUSINESS FOR PHOTOGRAPHING.  
CAMERA OPERATOR W. J. Smith DATE PROCESSED 7-23-87

¶ 61,259

Federal Energy Guidelines  
014-35



**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**3/10/2020 12:28:51 PM**

**in**

**Case No(s). 86-1747-GA-CSS**

Summary: Brief Replay Brief of the Office of the Consumers' Counsel filed by E. Robinson.  
electronically filed by Docketing Staff on behalf of Docketing