

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

April 4, 2007

In Reply Refer To:  
Gulf South Pipeline Company, LP  
Docket No. RP96-320-070

Gulf South Pipeline Company, LP  
20 East Greenway Plaza, Suite 900  
Houston, TX 77046-2002

Attention: Michael E. McMahon  
Senior Vice President of Rates

Reference: Compliance Providing Further Explanation Regarding  
Non-Conforming Negotiated Rate Letter Agreements

Dear Mr. McMahon:

1. On September 1, 2006, Gulf South Pipeline Company, L.P., (Gulf South) submitted a compliance filing pursuant to the Commission's order issued August 17, 2006 in Docket No. RP96-320-069.<sup>1</sup> In that order, the Commission identified several cases where certain contracts did not appear to have been filed with the Commission, as required by section 154.112(b) of the Commission's regulations.<sup>2</sup> As a result, the Commission directed Gulf South to either explain when certain non-conforming negotiated rate letter agreements (letter agreements) listed in Gulf South's tariff sheets

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<sup>1</sup> *Gulf South Pipeline Company, LP*, 116 FERC ¶ 61,153 (2006) (August 17 Order). Previously, the Commission accepted Gulf South's March 31, 2006 filing which involved five (5) negotiated rate letter agreements. Because Gulf South did not have a tariff sheet on file listing its non-conforming agreements, the Commission directed Gulf South to file one that would list the subject agreements, as well as previously filed non-conforming agreements. *See* 115 FERC ¶ 61,123 (2006) (April 27 Order).

<sup>2</sup> 18 C.F.R. § 154.112(b) (2006). Section 154.112(b) requires, in part, that "contracts for service pursuant to part 284 that deviate in any material aspect from the form of service agreement must be filed."

were previously filed with and approved by the Commission (including the docket number and date of filing) or, in the alternative, file the letter agreements as set forth in FERC Volume No. 1 of Gulf South's tariff for Commission approval. As more fully discussed below, the Commission will accept the compliance filing, subject to conditions.

2. With respect to three letter agreements with Atmos Energy Corporation (Atmos) under Contract No. 29865, Gulf South was directed to explain: (1) whether those contracts provide for overall maximum daily quantities (MDQs) that vary by year; (2) the apparent discrepancy between the overall MDQ listed in Paragraph 1 of those agreements and the total of the primary point MDQs listed in the exhibits of those agreements; (3) whether Gulf South offers similar MDQ annual variations as are included in three Atmos contracts to its other customers; and (4) if not, what unique characteristics of these contracts may justify offering the provisions to Atmos but not to other no-notice service (NNS) customers.<sup>3</sup>

3. Furthermore, the Commission directed Gulf South to explain, in its compliance filing, whether the three Atmos agreements under Contract No. 29865, the Atmos agreement for Contract No. 31137 and the CenterPoint agreement for Contract No. 33487 are consistent with section 7.5(a) of the General Terms and Conditions (GT&C) of Gulf South's tariff. Section 7.5(a) of the GT&C of Gulf South's tariff provides that, *inter alia*, exclusive of the adjustment for fuel retention, if applicable, the MDQ for all firm primary receipt and delivery points must equal the total agreement MDQ, except in cases of capacity release. If not, the Commission directed Gulf South to explain whether it offers exceptions from the requirements of that section to all its customers on a not unduly discriminatory basis or whether there is some other justification for the special treatment given the shippers under these contracts.

4. On September 1, 2006, Gulf South made the instant filing to comply with the requirements of the August 17 Order.<sup>4</sup> Notice of Gulf South's filing was issued on

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<sup>3</sup> In the May 30 compliance filing under Docket No. RP96-320-069, at page 2, Gulf South gave an explanation as to why "one of the Atmos contracts" had an increase in MDQ. However, Gulf South did not identify which of the contracts this explanation applied to, and, in any event, it appeared that at least three of the Atmos contracts had annually varying contract demands.

<sup>4</sup> In its response to the August 17 Order, Gulf South makes reference to Docket No. RP96-350-056 when describing CenterPoint's NNS Contract No. 30999. We note that the letter agreement between Gulf South and CenterPoint (formerly Reliant Entergy - Entex) approved by the Commission in an unpublished letter order on May 2, 2002 was, in fact, issued under Docket No. RP96-320-056.

September 11, 2006. Protests were due as provided in Rule 210 of the Commission's regulations. *See* 18 C.F.R. § 154.210 (2006). No protests or adverse comments were filed.

5. In its compliance filing, Gulf South describes in great detail each of the letter agreements identified in the August 17 Order and asserts each of these letter agreements were previously filed with, and approved by, the Commission. In addition, Gulf South explains that it executes with each customer a master service agreement but that the master service agreement is not filed with the Commission because it does not deviate from the *pro forma* form of service agreement found in Gulf South's tariff. According to Gulf South, the master service agreement receives a unique contract number and, as provided in Gulf South's tariff, Gulf South and the customer may execute a separate letter agreement governing the rate that will apply under the master service agreement. Gulf South states that, if such a rate letter agreement contains a negotiated rate, under section 23.4 of its tariff, the rate letter agreement is filed with the Commission for approval. Similarly, it states that any rate letter agreement containing a provision that does not conform to Gulf South's tariff is filed with the Commission for approval. Typically, Gulf South states that each separately executed rate letter agreement will reference the related master service agreement.<sup>5</sup>

6. Gulf South further explains that, until June 20, 2005 (the date Gulf South implemented its new gas management system), a new contract number was assigned by the old contract management system every time a master service agreement was renewed or replaced due to a customer exercising its right of first refusal (ROFR), when a customer's name or agent's name was modified, and every time the customer designated a new agent. Gulf South claims neither the aforementioned events nor a change in the contract number affect the terms or effectiveness of either the master service agreement or any Commission approved rate letter agreement.

7. After reviewing the compliance filing, the Commission finds that, in the future, if Gulf South decides to amend a contract number in its master service agreement for any of the aforementioned reasons, Gulf South must amend its tariff sheet listing the Commission approved letter agreements by amending the contract number of each separately executed letter agreement with the newest contract number of its corresponding master service agreement.

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<sup>5</sup> Gulf South's narrative explanation is followed by a chart providing a summary with respect to each of the fifteen service agreements containing non-conforming provisions, including customer name, current NNS master contract number, and prior NNS master contract number, filing date of the corresponding letter agreement, docket number and the approval date of the letter agreement.

8. In response to the Commission's directive concerning Contract No. 29865, Gulf South asserts that all of the annually varying MDQs under Contract No. 29865 were established pursuant to an agreement between Gulf South and Atmos dated March 28, 2002. Gulf South notes the agreement specifies small annual MDQ increases needed to serve Bedico, Hammond, and Pontchatoula, Louisiana, and provides a schedule of increases in MDQ in aggregate reflecting the effective date and the total increase in MDQ for such date. Regarding Gulf South's ability to offer similar MDQ annual variation provisions to customers other than Atmos, Gulf South states that any customer may request to increase its MDQ in excess of 90 days prior to commencement of service if it meets one of the exceptions under section 7.4 of the GT&C of Gulf South's tariff.<sup>6</sup> Upon review, the Commission finds that Gulf South has satisfactorily addressed our concern.

9. Gulf South states that the CenterPoint agreement, which was filed contemporaneously with the Atmos letter agreements, also contains a provision permitting an MDQ increase during the second year of the service agreement based upon the construction of facilities needed to support the additional MDQ. This provision is acceptable since it is consistent with the provision in section 7.4 permitting MDQ increases in conjunction with new construction.

10. With respect to the three Atmos agreements' consistency with the requirement in section 7.5(a) of the GT&C of Gulf South's tariff that primary point MDQs must equal overall MDQs, the August 17 Order noted that the total of the primary point MDQs listed in Exhibit B appear to exceed the overall MDQs provided for in Paragraph 1 of the Atmos service agreement for Contract No. 31137.<sup>7</sup> In response, Gulf South asserts that the MDQ stated in Paragraph 1 of the Atmos service agreement for Contract No. 31137 does, in fact, match the MDQ on the Exhibits. Upon review, we agree.

11. The Commission directed Gulf South to provide the same explanation for the CenterPoint contract as it had required for the aforementioned Atmos contracts. In its response, Gulf South notes that the letter agreement dated March 9, 2006 contains a typographical error with respect to the stated shoulder MDQ amount applicable to such time period. Specifically, Gulf South states that the correct shoulder MDQ should be

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<sup>6</sup> We note that section 7.4 of the GT&C of Gulf South's tariff provides that, *inter alia*, a request for service can be received and processed more than 90 days prior to the commencement of service if the request is associated with an open season, new supply being attached to Gulf South's system, termination of an existing contract on another pipeline, construction of new facilities is required to serve a new receipt or delivery point or the modification of facilities that will result in a material increase in gas usage or production.

<sup>7</sup> The reference to Exhibit B was an inadvertent error. Instead, Exhibit A to the letter agreement is the Exhibit in question.

203,759. Thus, we direct Gulf South to amend the letter agreement dated March 9, 2006 under Contract No. 33487 to correct the typographical error, so that the station location number (SLN) shoulder receipt point and the aggregated shoulder delivery SLN point totals equal the maximum daily shoulder MDQ set forth in Paragraph 1 of the agreement.

12. Further, with respect to the aforementioned CenterPoint agreement, Gulf South states that for both time periods, all the SLN receipts (plus storage withdrawal quantities) equal the aggregated delivery SLN sub-totals listed in Exhibit A. Gulf South argues that this total matches the quantities identified in Paragraph 1 of the agreement, and therefore complies with section 7.5(a) of the GT&C of its tariff. In addition, Gulf South states that for the period April 1, 2007, CenterPoint submitted a request for service in accordance with section 7.4 more than 90 days in advance because of the construction and upgrade of existing facilities serving Lufkin and Diboll. The Commission accepts Gulf South's explanation, subject to Gulf South correcting the shoulder MDQ, as stated above. Accordingly, the Commission accepts the compliance filing, subject to the above conditions.

By direction of the Commission.

Philis J. Posey,  
Acting Secretary.