124 FERC ¶ 61,108
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

(July 29, 2008)

In Reply Refer To:
Trunkline LNG Company,
LLC
Docket No. RP08-429-000

Trunkline LNG Company, LLC
5444 Westheimer Road
Houston, TX 77056-5306

Attention: Michael T. Langston, Senior Vice President
Government and Regulatory Affairs

Reference: Fuel Reimbursement Percentage and Electric Power Cost Adjustment

Dear Mr. Langston:

1. On June 30, 2008, Trunkline LNG Company, LLC (TLNG) filed Fourteenth Revised Sheet No. 5 to its FERC Gas Tariff, Second Revised Volume No. 1-A to reflect increases to the Fuel Reimbursement Percentage (FRP) and Electric Power Cost Adjustment (EPC) pursuant to Section 19 and Section 20, respectively, of the General Terms and Conditions (GT&C) to be effective August 1, 2008. The revised tariff sheet reflects a 0.59 percent increase in the FRP and a $0.2245 per Dt increase in the EPC under Rate Schedules FTS, FTS-2, ITS and ITS-2. On July 14, 2008, BG LNG Services (BGLS) filed a Motion for Leave to Intervene, Protest and Request for Suspension (Protest) contending that TLNG overstated the surcharges. The Commission accepts and suspends the filing, to be effective on August 1, 2008, subject to refund and to the outcome of the technical conference established herein and further orders of the Commission in this proceeding.

2. TLNG retains a stated percentage of the volumes delivered to its system as fuel and lost and unaccounted for gas (LUFG). In this regard, TLNG's tariff provides for the calculation of this FRP. Section 19 of the GT&C of TLNG's tariff sets forth how TLNG computes its fuel reimbursement adjustment percentage. Under Section 19, TLNG must make its filing each year to adjust its FRP, to be effective August 1.

3. The FRP is comprised of two parts--the current FRP and the annual fuel reimbursement surcharge. Section 19.3 of the GT&C provides, "The Current Fuel Reimbursement Percentage shall be determined on the basis of (i) the estimated Quantities of Regasified LNG to be delivered by TLNG for the account of Shippers; and (ii) the projected Quantities of Gas that shall be required for fuel usage, miscellaneous fuel usage and Lost and Unaccounted for Gas." The annual fuel reimbursement surcharge disposes of underrecoveries or overrecoveries of fuel as reflected in TLNG's deferred fuel account. Section 19.4 of the GT&C provides, "the Annual Fuel Reimbursement Surcharge shall be computed by dividing the balance, four Months prior to August 1, of the Deferred Fuel Reimbursement Account by the Quantity of Regasified LNG projected to be delivered pursuant to Rate Schedules FTS, FTS-2, ITS and ITS-2 for the Recovery Period." The recovery period for the current and the annual fuel reimbursement surcharge is the 12 billing months beginning August 1.

4. Section 20 of the GT&C of TLNG's tariff sets forth the requirements that TLNG must meet when making its EPC, to reflect either reductions or increases in the electric power costs. Electric power costs consist of all incremental charges for the purchase of electric power used at the Terminal that are incremental to the Base Power Cost included in the EPC. Under Section 20, TLNG must make its filing each year to adjust its EPC, to be effective August 1.

5. The effective EPC is comprised of two parts -- the current EPC plus the annual Electric Power Surcharge -- and is calculated in a fashion similar to that used for the FRP. Section 20.3 of the GT&C provides that, "The Current Electric Power Cost Adjustment shall be determined by subtracting the Base Electric Power Cost Unit from the Current Electric Power Cost Unit for the recovery period." The currently effective Base Electric Power Cost Unit is $.0136 per Dt. Section 20.3 also provides that, "The Current Electric Power Cost Unit for the Recovery Period shall be determined on the basis of (i) the projected Electric Power Costs for the Recovery Period and (ii) the projected Quantities of LNG to be received during the Recovery Period." Section 20.4 of the GT&C provides that, "The annual Electric Power Cost Surcharge shall be computed by dividing the balance, determined four Months prior to August 1, of the Deferred Electric Power Cost Account by the Quantity of LNG projected to be received during the recovery period." The recovery period is the 12 billing months beginning August 1.

6. In the instant filing, TLNG submitted a revised tariff sheet and appendices that reflect a 0.59 percent increase in the FRP (from 1.68 percent to 2.27 percent) and a $0.2245 per Dt increase in the surcharge for the EPC (from $0.0390 to $0.2635) under Rate Schedules FTS, FTS-2, ITS and ITS-2.

7. TLNG used 169,981,810 Dt, an annual average of total deliveries less Gas used for Compressor Station Fuel from 2005 through 2007, as its estimated quantities of Regasified LNG deliveries for computation of the current FRP. In addition, TLNG used

the annual average of total fuel and LUFG for the same three-year period as its projected quantities of gas required for fuel and LUFG. The deferred account balance as of March 31, 2008 reflects an under-recovery of 191,279 Dt of fuel. The annual fuel reimbursement surcharge to amortize this balance is based on a projected regasified LNG quantity of 28,890,000 Dt for the twelve months beginning August 1, 2008.

8. TLNG computed the effective EPC by using a deferred Power Cost Account balance as of March 31, 2008 of $1,783,141 and a projected electric power cost of $6,252,936. For LNG receipts TLNG used 30,500,000 Dt as a projection for the twelve months beginning August 1, 2008.

9. Notice of TLNG's filing was issued on July 2, 2008. Interventions and protests were due as provided in §154.210 of the Commission's regulations (18 C.F.R. §154.210 (2008)). Pursuant to Rule 214,[1] all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. A protest was filed by BG LNG Services, LLC (BGLS). Specifically, BGLS contends that TLNG overstated the surcharges. In addition, BGLS states that TLNG should explain its derivation of the Projected Electric Power Costs and provide detailed work papers on it. BGLS requests that the Commission suspend the effectiveness of the tariff sheets for the maximum five-month period, or to the extent the Commission accepts the revised filing, attach a refund condition, and direct TLNG to provide justification for the throughput quantity that TLNG used to derive the projected annual fuel and electric power surcharges or modify the calculations.

10. TLNG filed an answer to BGLS's comments on July 23, 2008, requesting the Commission deny BGLS's protest and request for suspension. Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §385.213 (2008), prohibits the filing of answers to a protest unless otherwise permitted by the decisional authority. We find that good cause exists to allow TLNG to answer because it provides additional information that assists us in the decision-making process.

11. BGLS states that both TLNG's fuel and electric power cost tracking mechanisms use projected throughput for the coming year as the denominator of the adjustment calculations. BGLS points out that TLNG computes the three year average total annual regasified LNG for the coming year to be 169,981,810 Dt (for calculation of the Current FRP), yet projects a regasified LNG quantity of 28,890,000 Dt for the coming year for use in calculating the Annual FRP and projected LNG receipts of 30,500,000 Dt in calculating its Annual Electric Power Cost Surcharge. BGLS claims that using much

[1] 18 C.F.R § 385.214 (2008).

lower projections of annual throughput than the average annual regasified LNG over the past three years used for calculating the Current FRP, 169,981,810 Dt, substantially overstates the Annual Fuel Reimbursement Surcharge, the Annual Electric Power Cost Surcharge and the Current Electric Power Cost Adjustment. BGLS states that TLNG's filing does not provide justification for the throughput quantities that TLNG has used to derive the fuel and electric power surcharges and the current power cost adjustment. BGLS further states that TLNG should consistently use the average throughput based on three years of operating experience throughout its computation to derive the current charges as well as the surcharges. BGLS cites in its protest, a previous Commission Letter Order[2] (Letter Order) issued July 31, 2002, in which CMS Trunkline LNG Company (Trunkline) filed numbers for its projected regasified LNG used in the denominators that differed from the projected regasified LNG estimate that Trunkline used for the computation of its Current FRP. In the Letter Order the Commission accepted and suspended the filing, subject to Trunkline recalculating the FRP and EPC and refiling appropriate tariff sheets within fifteen days of the issue date of the order.

12. BGLS requests the Commission require TLNG to modify its fuel and electric power cost calculations to use the average annual quantity of regasified LNG over the past three years to compute its percentages and that TLNG explain its projected Electric Power Costs. In addition, BGLS requests that the Commission suspend the effectiveness of the tariff sheets for the maximum five-month period. BGLS states the Commission's policy is to administer its regulatory policies in order to protect against excessive rates and charges. At a minimum, BGLS believes that to the extent the Commission accepts the revised filing, a refund condition should be attached.

13. In its answer, TLNG contends that it correctly calculated the currently effective fuel reimbursement percentage in accordance with Section 19 of its tariff. TLNG contends that if it were to use the throughput projection of 169,981,810 Dt used in computing the Current Fuel Reimbursement Percentage and not the throughput projection of 28,890,000 Dt used in deriving the Annual Fuel Reimbursement Surcharge, a reduction in the Annual Fuel Reimbursement Surcharge component from 0.66 percent to 0.11 percent would occur. TLNG further contends that the same projections for both components of TLNG's fuel charge, has not always been BGLS's interpretation and states that the fuel tracker filings effective August 1, 2004, August 1, 2005, August 1, 2006, and August 1, 2007[3] used two components that were not identical. TLNG also

[2] *CMS Trunkline LNG Company, LLC*, 100 FERC ¶ 61,127 (2002).

[3] The filings in Docket Nos. RP07-505-000 (2007), RP06-411-000 (2006), RP05-491-000 (2005), and RP04-385-000 (2004) were all accepted in unpublished Letter Orders issued by delegated authority.

contends that it correctly calculated the electric power cost adjustment in accordance with Section 20 of its tariff.

14. TLNG asserts that its throughput projection for the period from August 1, 2008 through July 31, 2009 was calculated using historical activity levels experienced at the terminal, forecasted activity based on current LNG market conditions, and guidance from BGLS regarding its planned activity at the terminal. TLNG states contrary to BGLS's claim, it did in fact meet with BGLS where TLNG was told by BGLS that it should not expect deliveries prior to February 2009.

15. The Commission has reviewed TLNG's filing, as well as the protest filed by BGLS and the answer filed by TLNG, in this proceeding and finds that TLNG's proposed FRP and EPC raise significant issues with regard to the application of its tariff methodology and the throughput projections used for the current and reimbursement surcharge calculations for both the FRP and EPC. We find that it is not possible to determine, at this juncture, whether TLNG's proposed FRPs and EPCs are just and reasonable. A technical conference will afford the Commission staff and the parties to the proceeding an opportunity to discuss all of the issues raised by TLNG's proposal. At the technical conference, TLNG should be prepared to fully explain its methodology for determining the throughput projections it uses in calculating its FRPs and EPCs. Any party proposing alternatives to TLNG's proposals should also be prepared to similarly support its position. Accordingly, the Commission's staff is directed to convene a technical conference to address the issues raised by TLNG's filing and report the results of the conference to the Commission within 120 days of the date this order issues.

16. Based upon a review of the filing, the Commission finds that the proposed tariff sheet has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept the proposed tariff sheet for filing and suspend its effectiveness for a minimal period to be effective August 1, 2008, subject to the conditions set forth in this order.

17. The Commission's policy regarding tariff filing suspensions is that such filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards. See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension). It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (minimum suspension). The Commission finds that such circumstances exist here where TLNG is filing an annual update pursuant to an approved gas tracker mechanism. Therefore, the Commission will

accept and suspend the proposed tariff sheet to be effective August 1, 2008, subject to refund and subject to the outcome of the technical conference established herein and further orders of the Commission in this proceeding.

By direction of the Commission.

Kimberly D. Bose,
Secretary.